

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
3 HONORABLE JOHN F. WALTER, U.S. DISTRICT JUDGE
4

5 UNITED STATES OF AMERICA,)
6 Plaintiff,) Case No.
7 vs.) CR 15-131-JFW
8 TEOFIL BRANK,)
9 Defendant.)
10 _____)

11
12 REPORTER'S TRANSCRIPT OF
13 TRIAL DAY 3
14 THURSDAY, JULY 9, 2015
15 7:49 A.M.
16 LOS ANGELES, CALIFORNIA
17
18
19
20
21

22 _____
23 MIRANDA ALGORRI, CSR 12743, CRR
24 FEDERAL OFFICIAL COURT REPORTER
25 312 NORTH SPRING STREET, ROOM 435
LOS ANGELES, CALIFORNIA 90012
MIRANDAALGORRI@GMAIL.COM

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

STEPHANIE YONEKURA
United States Attorney
BY: KIMBERLY DENISE JAIMEZ
BY: EDDIE JAUREGUI
BY: RYAN WHITE
Assistant United States Attorney
United States Courthouse
312 North Spring Street
Los Angeles, California 90012

FOR THE DEFENDANT:

HILARY L. POTASHNER
Federal Public Defender
BY: SEEMA AHMAD
BY: ASHFAQ G. CHOWDHURY
Deputy Federal Public Defender
Central District of California
321 East Second Street
Los Angeles, California 90012

FOR THE VICTIM:

SIDLEY AUSTIN, LLP
BY: DOUGLAS A. AXEL
BY: ANAND SINGH
555 West Fifth Street
Suite 4000
Los Angeles, California 90013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

M A S T E R I N D E X

THURSDAY, JULY 9, 2015, 7:49 A.M.

Chronological Index of Witnesses

Government's					Voir
Witnesses:	Direct	Cross	Redirect	Recross	Dire

(None)

EXHIBITS

THURSDAY, JULY 9, 2015; 7:49 A.M.

<u>Exhibits</u>	<u>For Identification</u>	<u>In Evidence</u>	<u>Withdrawn or Rejected</u>
201-A Transcript of Ex 201			78
202-A Transcript of Ex 202			79

1 **LOS ANGELES, CALIFORNIA; THURSDAY, JULY 9, 2015**
2 **7:49 A.M.**

3 ---

4 (The following proceedings were held in
5 open court out of the presence of the jury:)

6 THE COURT: Good morning to all. We're on the
7 record. The jury is not present. Counsel and the defendant
8 are present. You can be seated.

9 The issues I want to discuss this morning, before we begin
10 closing arguments, are the Court's final rulings on the jury
11 instructions. The Court has received last night the
12 Government's supplemental proposed jury instructions filed
13 on -- yesterday, July 8. They're document no. 262, and the
14 defendant's objection to the supplemental jury instruction
15 proposed by the Government with respect to California law.
16 That's document no. 263.

17 Unless anybody has anything to add, I'm going to give you
18 my final rulings.

19 MR. CHOWDHURY: Nothing from the defense.

20 MR. JAUREGUI: No, Your Honor.

21 THE COURT: All right. As I indicated yesterday,
22 the Court concludes that the Government is required to prove
23 wrongfulness as an element of the offenses charged in Counts 1,
24 2, and 5, and the defendant is entitled to a claim of right
25 instruction. The Government's argument to the contrary is
 based upon its contentions that threats to publicly disclosed

1 information about a victim's private sexual conduct in order to
2 obtain property are inherently or always wrongful, and thus it
3 need not prove wrongfulness. That was in the Government's
4 joint memorandum of law at page 8.

5 However, the Court believes that the Government's argument
6 is based upon facts that it will rely on to prove that
7 defendant induced Mr. Burns to part with property by the
8 wrongful threat of reputational harm. In order to deprive the
9 defendant of a claim of right instruction, the Government would
10 be required to demonstrate in this case a wrongful threat of
11 reputational harm, not the facts that support that harm must
12 always be wrongful.

13 And unlike the threat and use of force of violence outside
14 the labor context, the threat of reputational harm is not
15 always wrongful. And as the 2nd Circuit held in
16 *United States versus Jackson*, 180 F.3d 55, like threats of
17 economic harm, not every threat to make a disclosure that would
18 harm another's reputation is wrongful, and thus it's material
19 whether defendant had a claim of right to the money demanded.

20 Accordingly, I conclude that the jury must be instructed
21 on wrongfulness, and that definition must include a claim of
22 right instruction.

23 The Court will give its proposed wrongfulness instruction
24 on no. 13 that it provided to counsel yesterday which reads as
25 follows:

1 For purposes of Count 1, 2, and 5, a threat is wrongful if
2 defendant knew that he was not entitled to obtain the property
3 or that the threat had no nexus, that is, a connection to a
4 legitimate claim for money or property.

5 The Court's proposed instruction is a combination of the
6 9th Circuit Model 8.142A and the 2nd Circuit's decision in
7 *United States versus Jackson* at 180 F.3d 55. The Court
8 concludes that the 2nd Circuit's opinion in *Jackson* that a
9 threat is wrongful if there is no nexus or connection to a
10 legitimate claim for money or property is appropriate in the
11 context of a threat of reputational harm. The 9th Circuit
12 Model only covers extortion or attempted extortion by threat of
13 economic harm, not reputational harm.

14 In addition, although the Government has agreed to the
15 Court's proposed instruction, I think it's appropriate to state
16 for the record why I changed the Government's proposed
17 instruction. First, the Court concludes that the Government's
18 proposed instruction that "A threat is also wrongful if it is
19 unlawful" is not appropriate based upon the facts of this case.
20 In this case the only unlawfulness alleged is under Counts 1,
21 2, and 5 which require wrongfulness. Thus defining
22 wrongfulness as an unlawful threat creates a confusing circular
23 argument for the jury.

24 Second, the Government's proposed instruction did not
25 require that the Government prove that defendant knew that he

1 was not entitled to the property or the threat had no nexus to
2 a legitimate claim for the property. The 1st Circuit in
3 *United States versus -- S-t-u-r-n* is the name of the case -- at
4 870 F.2d 769 which is a 1st Circuit case held that the
5 Government must prove that defendant knew he was not entitled
6 to the property.

7 The 9th Circuit has not yet ruled on the issue, but the
8 9th Circuit Jury Instruction Committee has recommended that,
9 until the Circuit rules, that the Court instruct that the
10 Government must prove the defendant knew that he was not
11 entitled to obtain the property, and it's Model Hobbs Act
12 instruction.

13 Third, the Court has added in the instruction that this
14 instruction applies to Counts 1, 2, and 5. As the Court stated
15 yesterday, based upon the three cases that I cited, the Court
16 has concluded that 18 United States Code Section 875(d) also
17 has a wrongfulness element.

18 In reviewing my notes last evening from yesterday's
19 hearing, I realized that I had never addressed one of the
20 issues that defense counsel raised and that is specifically
21 whether Counts 2 and 5 should include a true threat requirement
22 in addition to a wrongful threat requirement. I conclude that
23 Counts 2 and 5 do not have a true threat requirement.

24 The true threat requirement is necessary when a criminal
25 statute punishes a pure -- a form of pure speech, and that was

1 stated by the 9th Circuit in *United States versus --* and the
2 case name is B-a-g-d-a-s-a-r-i-a-n, 652 F.3d 1113. In order to
3 affirm a conviction under any threat statute that criminalizes
4 pure speech, we must find sufficient evidence that the speech
5 at issue constitutes a true threat.

6 Unlike 875(d), which punishes pure speech, the Hobbs Act
7 under Section 1951(a) does not punish pure speech. Indeed,
8 extortion under the Hobbs Act requires that the defendant
9 induce the victim to part with property, and the attempted
10 extortion requires that the defendant did something that was a
11 substantial step toward committing the crime.

12 I have also reviewed the Government's proposed instruction
13 relating to the -- to Count 6, and I agree with the defendant
14 that the extensive instruction on California law will confuse
15 the jury because of the differences in the elements in
16 California -- under California law and federal law of extortion
17 which are explained in the instruction. Moreover, as the
18 defendant points out, the proposed instruction offers no
19 guidance to the jury and conflicts with the wrongfulness
20 instruction that applies to Counts 2 and 5.

21 Finally, the Government has simply offered this
22 instruction too late, has had ample time since it submitted its
23 original instructions to recognize this issue and raise the
24 issue with the Court and counsel. Accordingly, I'm not going
25 to give the Government's proposed instruction.

1 However, I will give the Government's interstate commerce
2 and foreign commerce instruction. However, with respect to the
3 Hobbs Act, Counts 2 and 5, I've modified it slightly to
4 indicate that the effect need only to be reasonably probable,
5 not actual, and that's based upon the 9th Circuit case of
6 *United States versus Rodriguez* at 360 F.3d 949.

7 So that concludes the rulings on the jury instructions.

8 MR. CHOWDHURY: Your Honor, defense would just --
9 two things. First thing is I think yesterday I gave an
10 estimate of 20 minutes for the closing. In running through it
11 last night, I think it might be 25 to 30. I'm just letting you
12 know.

13 THE COURT: All right.

14 MR. CHOWDHURY: And we would move at this time under
15 Rule 29 for insufficiency of the evidence on the evidence of
16 the threat to reputation on Counts 1, 2, and 5 and the failure
17 of the Government to show that Mr. Brank knew he was not
18 entitled to the funds and the property that he solicited on
19 Counts 1, 2, and 5. We believe the other counts follow on that
20 as well. So that's our motion -- Rule 29 motion.

21 THE COURT: All right. That motion will be denied.

22 All right. Are you ready? We're going to bring in the
23 jury, and we'll have closing arguments.

24 MS. JAIMEZ: Yes, Your Honor.

25 ///

1 (The following proceedings were held in
2 open court in the presence of the jury:)

3 THE COURT: Good morning, ladies and gentlemen. As
4 I indicated yesterday, the evidence portion of the case is now
5 closed. So we will now hear the closing arguments of counsel,
6 and we'll begin with Government counsel.

7 MS. JAIMEZ: Your Honor, may it please the Court.

8 THE COURT: Yes. Go ahead.

9 MS. JAIMEZ: People with deep pockets and dark
10 secrets are directly vulnerable to extortion. The defendant
11 knew that Donald Burns had skeletons in his closet, skeletons
12 that Donald Burns feared could become public some day. The
13 defendant used that fear to obtain an Audi r8. He used that
14 fear to obtain a \$500,000 wire transfer. And he almost used
15 that fear to obtain a \$1 million payday, but then he was
16 caught.

17 Ladies and gentlemen of the Jury, this is a case about
18 greed, greed and frustration. The defendant became frustrated
19 with the victim Donald Burns when things didn't work out as he
20 planned. The defendant planned to borrow Donald Burns'
21 Audi r8, but that didn't happen. The defendant planned on
22 having an ongoing referral fee arrangement, but Donald Burns
23 said they didn't have a working relationship anymore after the
24 referral fee dispute. So what did the defendant do? He
25 decided to cash in on the secret he knew about. He decided

1 that he would threaten to expose that secret unless -- unless
2 he got paid.

3 And as a result, the defendant is charged today with one
4 count of transmitting threatening communications in interstate
5 commerce with the intent to extort; Count 2, extortion; Count 3
6 and 4, receipt of extortion proceeds, specifically the Audi and
7 the \$500,000 wire transfer; Count 5, attempted extortion; and,
8 Count 6, use of an interstate facility, in other words, a cell
9 phone, to facilitate an unlawful activity, and in this case
10 extortion.

11 Now, in order for you to find the defendant guilty of
12 these counts, you're going to have to find that the evidence
13 shows he committed these counts beyond a reasonable doubt.
14 That's the Government's burden, and we embrace that burden.
15 The one thing to remember, however, that it's not proof beyond
16 all doubt because everything is open to some doubt. However,
17 in this case the Government has more than met its burden. The
18 evidence speaks for itself. The evidence quite literally says
19 extortion. The defendant in text messages says to
20 Donald Burns, "How do I know you won't report me for
21 extortion?" The defendant says in another text message, "Who
22 wants to be friends with blackmail?"

23 So let's consider each of the counts. First, Count 1,
24 transmitting threatening communications in interstate commerce.
25 What do you have to find in order to convict the defendant

1 under Count 1? First, you have to determine whether or not the
2 defendant knowingly sent a communication containing a wrongful
3 and true threat to injure the reputation of Donald Burns.
4 Next, you'll have to determine whether or not the defendant did
5 so with the intent to extort money or something else of value.
6 Next, you'll have to determine whether or not there was an
7 effect on interstate commerce.

8 Now, with respect to the first element, you'll remember
9 you have to determine whether or not there's a communication
10 containing a true threat that is wrongful. How will you know
11 what a true threat is? The Court is going to provide you jury
12 instructions here shortly, but let's go over it briefly.

13 A true threat has both an objective standard as well as a
14 subjective standard. Under the objective standard, you're
15 going to have to determine whether or not a reasonable person
16 would consider the threat to be a serious expression of intent
17 to injure when taken in context.

18 There's also a subjective standard to the true threat
19 analysis. You have to determine whether or not the defendant
20 intended for his threat to be understood or for his
21 communication to be understood as a threat.

22 Now, what about wrongful? How will you determine whether
23 or not a threat is wrongful? You'll also receive an
24 instruction from the Court on this matter, but specifically a
25 threat is wrongful if the defendant knew he was not entitled to

1 the property or if the threat had no nexus or communication to
2 a legitimate claim to property.

3 So let's consider how will you determine whether or not
4 the defendant sent communications with the true threat wrongful
5 with the intent to injure the reputation of Donald Burns?
6 We're going to have to look at the communications themselves
7 which we'll do in just a moment. But before we look at the
8 communications, we'll have to consider the context. As I
9 mentioned before, in order to analyze whether or not something
10 is a true threat, you have to look at the context. What is the
11 context here?

12 Here you heard testimony from Donald Burns that the
13 defendant and he had a referral fee arrangement in which
14 Donald Burns would pay the defendant somewhere between 1,500
15 and \$2,000 for referrals, referrals of individuals that would
16 have sex with Donald Burns. That worked out for a while.
17 However, in January of 2015 of this year, one of those
18 referrals didn't come to be, but the defendant got a \$2,000
19 advance. When the referral didn't happen, the defendant
20 refused to return the advance, and there became a rift in the
21 relationship. The two stopped communicating until all of a
22 sudden.

23 All of a sudden the defendant opens communications as we
24 see in Exhibit 108, the extraction from the victim's cell
25 phone. And what does he say? "So another month has passed,

1 and you broke your word again. Tisk. Tisk." You'll remember
2 that in response Donald Burns, who didn't know really what was
3 happening at this point, just sent a question mark, and the
4 defendant clarified, "The car. How can we work if trust is
5 broken?"

6 Donald Burns goes on to respond in text message saying, "I
7 think we don't have a working relationship anymore. The \$2,000
8 advance" -- referring to that 2015 advance -- "is an
9 outstanding issue. You're right that I'm not interested in
10 making a big deal out of it, but I'm not comfortable working
11 together after that."

12 What happened next? The defendant responds, "Be wise on
13 how you reply. I can bring your house down, Don. This was a
14 simple conversation, and you throw this shit on me. Don't get
15 me mad. I do have a Twitter and your photos. Lies can be
16 made, or maybe it's the truth."

17 Now, you heard Donald Burns testify that he understood
18 these text messages to mean that the defendant was willing to
19 expose their pay-for-sex relationship on his Twitter account.
20 This was worrisome for Donald Burns. Why? Because the
21 defendant was a well-known pornography actor by the name of
22 Jarec Wentworth. He had a significant Twitter following, and
23 Donald Burns was afraid what would happen if something was
24 posted.

25 So Donald Burns wrote back, tried to get more information,

1 tried to calm the defendant down even by saying, "Happy for you
2 to have the dough, but don't want people pissed off at me all
3 the time. That's why I haven't bothered you since we last
4 chatted."

5 However, the defendant did not calm down. The defendant
6 responded, "You're not nice. You're rude, self-centered
7 narcissist. I was only trying to be a friend and throw you
8 boys." Here of course we know that he's referring to the
9 referral fee arrangement in which the defendant would refer
10 pornography actors to Donald Burns for sex. The defendant goes
11 on to say, "But you argue with me over little things and expect
12 me to take it? You of all people know I bite when someone
13 corners me. You didn't hold your word twice on the car, and
14 that gets me upset. Trust is what works, and you break them.
15 Maybe you need a taste of it."

16 You heard Donald Burns testify that at this point he was
17 not sure what car the defendant was talking about. However,
18 you did hear from Etienne Yim, an associate of the defendant,
19 who told you that the defendant had always wanted to borrow the
20 Audi r8 and that was a point -- that was an issue for him.

21 Soon after in the text exchange the defendant goes on to
22 clarify for Donald Burns what he's referring to. He says, "You
23 promised me you would let me drive the r8. Cars are my life.
24 You know that," he says. "Show I'm nothing to you. Promises
25 broken. I'm feeling evil right now."

1 And you'll remember that Donald Burns said that that
2 scared him. The defendant hadn't used that type of language
3 before. So he responded again, trying to calm the defendant
4 down, "Dude, you're so pissed. You're talking about blowing me
5 up on Twitter. Remember, I tracked you down because I liked
6 your energy and we have had fun hanging out. If we annoy each
7 other, then we should call each other assholes and put it
8 behind us, not all this bad energy. Right?"

9 But instead of putting it behind him, the defendant did
10 the opposite. The defendant got mad. He wrote to
11 Donald Burns, "Check my Twitter. The conversation will grow
12 and questions will be asked. You lied to me and treated me
13 like shit. I asked again, and you put it behind you. Now it's
14 biting your ass."

15 Remember, you heard from Justin Griggs yesterday who
16 testified that he spoke with the defendant soon after these
17 text messages were going over to find out whether or not the
18 defendant was serious, to find out whether or not he was
19 joking. And what did the defendant tell Justin Griggs? He
20 said that, "This is me biting Don in the ass."

21 The defendant went on to write to Donald Burns, "I think
22 by the time I'm out of the gym, you will have a sweet treat for
23 me that will make me erase my tweet. Think hard. You know me;
24 right?"

25 And so, as directed, Donald Burns attempted to check

1 Twitter to find out what had happened. And sure enough, there
2 was a tweet. There was a tweet on the defendant's
3 Jarec Wentworth Twitter account naming Donald Burns by name
4 asking, "How many porn stars know a man named Don? Yes, Don."
5 And you heard from Donald Burns that he interpreted that tweet
6 to be a warning, to be an indication that the defendant was
7 serious and that more was to come unless he received, quote, "a
8 sweet treat." But he didn't know what that was at the time.

9 However, Donald Burns testified he was worried at this
10 point, he was fearful because, as we all know, as you know,
11 social media spreads quickly. And, in fact, he soon found out
12 that this tweet was retweeted on a blogger -- on a blog website
13 indicating that the information was already starting to gain
14 traction.

15 Then he heard from the defendant again. "I can't get
16 friendship anymore because who will want to be friends with
17 blackmail? I only wanted to drive the cars and enjoy your
18 company. I guess finding you boys is out of the picture. So
19 it leaves me with nothing to want out of this. So I'm just
20 going to bite hard. You got money, but I don't want that.
21 Money won't wash away what people will read and see of you.
22 Wow, I guess I hold the cards now."

23 Donald Burns responded, "Teo, I can't call you right now."
24 Remember, at this time he's in a boatyard in Vancouver,
25 Washington. "But please just tell me what you want me to do,

1 and please take down posts about me."

2 And soon after the defendant responds exactly what he
3 wants. "I want a new car, motorcycle, and both hands full of
4 cash." Then -- then I'll erase it and you. He goes on to
5 clarify exactly what he wants, "The r8, \$250,000. Have the
6 money in the car with the title. Simple. And make your
7 calls."

8 We heard from Donald Burns yesterday that, soon after
9 these texts, they had a conversation at approximately
10 12:00 p.m. on February 16, 2015. Donald Burns tried to explain
11 to the defendant that it was a bank holiday, there was no way
12 he could get him \$250,000 immediately. What did the defendant
13 say? Fine. He doubled the request to \$500,000 by the next day
14 plus the Audi r8.

15 Now, some of you might be asking at this point why was the
16 defendant or why -- excuse me -- was the victim Donald Burns so
17 willing to comply immediately with these requests? But
18 remember, as he testified to yesterday, he was worried that,
19 one, more information would get out there; and, two, it would
20 spread quickly. So he had to move quickly, and he did. He
21 wired the money, and he allowed the defendant to obtain
22 possession of the Audi.

23 So let's consider element one or the first item you have
24 to consider in connection with Count 1. Did the defendant
25 knowingly send a communication containing a wrongful and true

1 threat? Yes, he did. In fact, he even mentioned "blackmail"
2 in his communication. He references or implies that
3 Donald Burns' reputation would be affected by saying, "Money
4 won't wash away what people will read and see about you." He
5 references his Twitter account. And he's very clear that he
6 wants money, property. Then he would erase the post.

7 The next item you'll have to consider in order to find the
8 defendant guilty of Count 1, transmitting threatening
9 communications, is whether or not the communications traveled
10 in interstate commerce. Now, a communication travels in
11 interstate commerce if it goes from one state to the next, and
12 here we heard evidence of just that. The victim testified that
13 he was in Vancouver, Washington, when he received the original
14 February 16 text messages. You also heard testimony that
15 defendant was in California at the time.

16 In the exhibits you'll see Exhibit 175 which was admitted.
17 In Exhibit 175, there's cell site data that shows that
18 defendant's Samsung phone pinged off cell towers in the
19 Los Angeles area on February 16, 2015, further confirming that
20 he was in California while the victim was in Vancouver,
21 Washington, when these messages took place. As such, they
22 traveled in interstate commerce.

23 The next item you'll have to consider, did the defendant
24 send the communication with the intent to extort money or
25 something else of value? Now, in determining the issue of what

1 an individual's intent is, you'll have to consider a number of
2 things because obviously you're not going to know what's in the
3 defendant's head. But what you'll have to look at are his
4 statements and his conduct, and his conduct and his statements
5 confirmed that he acted with the intent to extort money or
6 something of value.

7 He conditions erasing the tweet on getting additional
8 money. He explicitly demands the Audi r8 and thousands of
9 dollars. And he told Etienne Yim, his friend, who traveled
10 with him to Las Vegas to celebrate, he told Etienne Yim that he
11 had blackmailed Donald Burns. And, of course, he told Griggs
12 on the day the messages were sent that he was biting
13 Donald Burns in the ass. He didn't tell anyone that he was
14 entitled to the property. He didn't tell anyone that
15 Donald Burns promised that he could get it.

16 What's more, the defendant even says in his own text
17 message, before he sends his routing information so he could
18 get the \$500,000, he says, "How do I know you won't report me
19 for extortion?" Clearly there's an intent to extort, but
20 nevertheless, he sent his routing information.

21 The evidence supports each of the elements, each of the
22 requirements for holding the defendant accountable under
23 Count 1. The defendant knowingly sent a communication
24 containing a wrongful and true threat to damage the reputation
25 of Donald Burns, defendant did so with an intent to extort, and

1 the communication traveled in interstate commerce.

2 Now let's consider Count 2, extortion. You'll have to
3 consider whether or not, number one, defendant induced the
4 victim to part with property by wrongful threat of reputational
5 harm. Two, you'll have to decide whether or not the defendant
6 acted with an intent to obtain property. Three, you'll have to
7 determine whether or not interstate commerce was affected in
8 some way in order to find the defendant guilty of extortion.

9 Now, this charge, like Count 1, relates to the defendant's
10 conduct on February 15 of this year. It relates to the initial
11 extortion threats. So did the defendant induce the victim to
12 part with property by wrongful threat of reputational harm?
13 The facts we just discussed apply here. Yes, he did. He sent
14 text messages, text messages that you'll see summarized in
15 Exhibit 108 back in the jury room, texts that threaten to bring
16 Don's house down, texts that referenced the defendant's Twitter
17 account. Then he placed a warning tweet on his Twitter account
18 showing the victim that he was serious.

19 He did, in fact, induce the victim to turn over his
20 property because, as we saw evidence, there was a \$500,000 wire
21 transfer from the victim's Goldman Sachs account to the
22 defendant's Wells Fargo account, and of course the defendant
23 obtained the Audi r8.

24 You saw the bank records yourself. Exhibit 105 showed the
25 bank transfer. You heard testimony that the defendant obtained

1 the Audi r8. You heard that testimony from Etienne Yim as well
2 as from Donald Burns. You also heard that there were photos
3 extracted from his Samsung phone of the Audi r8 which you'll
4 see at Exhibits 147 and 148 all indicating that he, in fact,
5 was able to induce Donald Burns to part with his property based
6 on his threats of reputational harm.

7 Next, did the defendant act with the intent to obtain
8 property? Again, you'll have to look at his statements and
9 actions to determine his intent. What did he do? Well, he
10 sent his routing information and his banking information to
11 ensure that he would get the \$500,000 transfer. He drove from
12 Los Angeles where he was initially -- remember Exhibit 175, the
13 cell site map that put him in Los Angeles, he drove from there
14 to San Diego to meet Mary, the victim's housekeeper, so he
15 could pick up the Audi r8 on February 16. He demanded title to
16 the Audi r8 and insurance. And the texts are clear about what
17 his demands were. He wanted a car. He wanted both hands full
18 of cash all indicating his intent to obtain property. And, of
19 course, you heard about the Las Vegas trip from Etienne Yim.
20 After he in fact obtained the property as he intended to do so,
21 he went to Vegas to celebrate in the Audi r8.

22 The next element you'll have to consider before you can
23 convict under Count 2 extortion is interstate commerce. You'll
24 receive an instruction on interstate commerce, but essentially
25 you'll have to determine whether or not this extortion had some

1 reasonably probable effect on interstate commerce even if it
2 did not have an actual effect.

3 Here the parties had a stipulation that there was, in
4 fact, a wire transfer from New York to California and that the
5 \$500,000 traveled in interstate commerce. That stipulation is
6 found in Exhibit 501. You also heard testimony from
7 Donald Burns about Marine Investco, LLC, his yacht building
8 company, where he was when he received these threats. And he
9 indicated that, had he not paid the \$500,000 to defendant that
10 day, it would have gone to this building project. Therefore,
11 interstate commerce was affected.

12 So the evidence is clear the defendant induced the victim
13 to part with property by wrongful threat of reputational harm.
14 Defendant acted with the intent to obtain property, and
15 interstate commerce was affected.

16 Now, Counts 3 through 4, receipt of extortion proceeds.
17 These counts relate, as I mentioned before, to the Audi r8. He
18 received that and the \$500,000 wire transfer. Before you can
19 find the defendant guilty of Counts 3 through 4, you'll have to
20 determine, first, whether or not defendant received, possessed,
21 concealed, disposed of money or other property. And we just
22 discussed that. Yes, he did. He received the Audi. He
23 received the wire transfer.

24 Next you'll have to decide whether or not the property was
25 obtained by committing the offense charged in Count 1, namely,

1 transmission of threatening communications with the intent to
2 extort. We already talked about Count 1, and the evidence
3 supports Count 1. So the question is, with respect to element
4 no. 3, did the defendant know that the money or property he
5 obtained had been unlawfully obtained? And yes, he did. How?
6 Because he obtained it unlawfully. Also, by his own comments
7 to his friend Etienne Yim. He told Etienne Yim that he got the
8 Audi r8 via blackmail.

9 He mentioned in his text messages just before he sent his
10 routing information, "How do I know you won't report me for
11 extortion? He didn't say, "When are you going to pay me that
12 \$500,000 you promised me?" No. He referenced extortion and
13 blackmail. He knew the property was unlawfully obtained.

14 And then there's the defendant's conflicting stories about
15 how he obtained the Audi r8. Remember, Agent Winning testified
16 yesterday about his analysis of the defendant's phone and how
17 he found certain multimedia text messages or messages in the
18 phone containing pictures of the Audi r8 which defendant sent
19 to family and friends.

20 In Exhibit 141 he says, with the picture of the Audi r8,
21 "Just bought this." But then in Exhibit 142, again with a
22 picture of the Audi r8 to another person, "Look what I just
23 inherited." Conflicting stories evidencing the fact that he
24 knew he had obtained this property unlawfully and possessed it
25 unlawfully. Therefore, the evidence supports Counts 3 through

1 4, receipt of extortion proceeds, because the defendant
2 possessed money and property, the Audi, the \$500,000. He
3 obtained it by committing the offense we discussed about in
4 Count 1, and he knew that he had the money and property
5 unlawfully.

6 Count 5, what do you have to find in order for you to
7 convict the defendant of Count 5? Count 5 relates to
8 defendant's behavior in March of this year. You'll recall in
9 March of this year the defendant renewed his demands, but
10 before you can convict him for his March behavior, you'll have
11 to decide the elements. You'll have to decide whether or not
12 defendant intended to induce the victim to part with property
13 by wrongful threat of reputational harm in March. You'll have
14 to decide whether or not defendant acted with the intent to
15 obtain property in March, whether or not interstate commerce
16 could have been affected, and whether or not the defendant did
17 something that was a substantial step toward committing the
18 crime of attempted extortion in March of this year.

19 So did the defendant intend to induce Donald Burns to part
20 with the property yet again by wrongful threat of reputational
21 harm? Even before March you'll recall that Donald Burns
22 testified that two days after the wire transfer he received
23 another demand. He received a text message saying, "Throw me
24 another half a mill. We'll be done for sure. No more asking.
25 No more taking. My word. Promise. Going to erase all of

1 Jarec." And here again he's referring to the Jarec Twitter
2 page. "No Twitter, no nothing. All gone and safe for you.
3 This will make me disappear."

4 And what happened afterwards? The victim testified that
5 he began negotiating with the defendant essentially trying to
6 stall him while the victim determined what he could do. And he
7 proposed to the defendant that he was going to pay the
8 defendant \$50,000 for five years while the victim went to
9 research what he should do. And then of course there is the
10 March 3rd new deal text which the victim received while he was
11 with the FBI in the Los Angeles office.

12 Exhibit 101 shows the new deal text which Donald Burns
13 received live in front of the FBI. In the new deal text, the
14 defendant clarifies that he's not interested in the
15 spread-out-over-time deal he says. He says the account will be
16 deleted, again, referencing the Twitter account, referencing
17 the reputational harm that he's threatening. The account will
18 be deleted if the new deal is reached. And then he finishes
19 the text exchange by threatening "One million cash."

20 So did the defendant, in fact, threaten reputational harm?
21 Did the defendant use a wrongful threat in this instance?
22 You'll recall that both Agent Sterle and the victim told you
23 about an undercover operation that occurred just after
24 receiving these new deal texts that occurred the next day on
25 March 4. In the undercover operation, the defendant went to go

1 and try to pick up the \$1 million from an undercover agent.
2 What did he do when he went to go pick up the \$1 million? He
3 had his hoodie up. He went in and sat down awkwardly. He had
4 his voice low. He asked Agent Sterle, "What do you have for
5 me?" This is not the behavior of someone who thinks that
6 they're entitled to \$1 million, therefore, indicating that his
7 threat was wrongful also with respect to the attempted
8 extortion.

9 So did the defendant act with the intent to obtain
10 property? Again, you'll have to look at his actions, at his
11 communications. He sent the new deal text, Exhibit 101. "New
12 deal, new deal. Not doing the spread-out-over-time thing.
13 Account will be deleted if new deal is reached."

14 He requested his friend Etienne Yim drive him from
15 San Diego to the L.A. area, specifically the El Segundo
16 Starbucks. He obtained a firearm from Etienne Yim's friend
17 Benjamin Williams to ensure that he would be protected when he
18 went to go pick up his \$1 million, further evidence that he
19 intended to walk away with property.

20 And then you can look at his demeanor and photos on
21 March 3rd, 2015, just before the undercover operation. He
22 appears elated in Exhibit 115, gloating even. He has already
23 obtained a \$500,000 wire transfer, an Audi r8 valued at
24 approximately \$180,000, and he's on his way to pick up another
25 million dollars. Obviously he had intent to obtain property.

1 Did this action, did this conduct affect interstate
2 commerce in some way, or, rather, could it have affected
3 interstate commerce in some way? You heard testimony yesterday
4 from Donald Burns that he is a businessman and he engages in
5 business nationwide. He has a boat building project in
6 Vancouver, Washington. He has homes in California, Florida,
7 Nantucket. And he does charitable donations of various
8 charities. He also testified that the first \$500,000 came from
9 his Goldman Sachs account. Therefore, it's reasonable to infer
10 that, if he had paid the \$1 million, it would have somehow
11 affected in some small way interstate commerce.

12 Element 4, did the defendant do something that was a
13 substantial step toward committing the attempted extortion on
14 March 4, 2015, when he went to go pick up the \$1 million at the
15 El Segundo Starbucks? We've already discussed it. He did a
16 number of steps. He sent the three -- the March 3rd new deal,
17 new deal text demanding the \$1 million. He traveled from
18 San Diego to El Segundo. He obtained a firearm. All of these
19 are substantial steps, and all of these evidence the fact that
20 he, in fact, committed Count 5, attempted extortion. Defendant
21 intended to induce the victim to part with additional property,
22 \$1 million. He acted with the intent to obtain the \$1 million.
23 Interstate commerce very well could have been affected, and the
24 defendant did more than a substantial step toward committing
25 that crime.

1 Count 6, use of an interstate facility to facilitate
2 extortion. Now, before you can find the defendant guilty of
3 Count 6, the final count, you'll have to decide whether or not
4 the defendant used a facility of interstate commerce. And I
5 explained before that's simply -- it's a telephone -- whether
6 or not he used that facility with the intent to carry on or
7 facilitate an unlawful activity which we know in this case is
8 extortion.

9 You'll have to decide whether or not, after using the cell
10 phone, defendant attempted to carry on or facilitate extortion.
11 We've talked about that in Count 5. And then you'll have to
12 decide whether or not defendant did something that was a
13 substantial step toward committing extortion. Again, we talked
14 about that.

15 So let's consider Count 1 or whether -- element one with
16 respect to Count 6. Did the defendant use a facility of
17 interstate commerce or cellular telephone with the intent to
18 carry on extortion? Yes, he did. In fact, the cell phone was
19 his principle tool for carrying on the extortion. You saw the
20 cell phone in Exhibit 604, the physical cell phone. You also
21 saw a photo of the cell phone during Scott Saul's, the forensic
22 examiner's, testimony. And it's also pictured here.

23 You heard Scott Saul testify to the extraction he did on
24 the defendant's phone which further corroborated the extortion
25 as testified to by Agent Winning who went through the

1 extraction from this phone. It contained text messages. It
2 contained photos. It contained e-mails all corroborating this
3 extortion.

4 And of course elements two and elements three have already
5 been discussed. The defendant did carry on or attempt to
6 commit extortion. The 101 -- the new deal text that you see in
7 Exhibit 101 evidence that, the trip from San Diego to
8 El Segundo to pick up the \$1 million, and of course the firearm
9 that he obtained for his protection so that he could make sure
10 he could get his \$1 million.

11 Therefore, the evidence supports a guilty verdict of
12 Count 6. The defendant used a facility of interstate commerce.
13 He used the cell phone to facilitate his extortion. After
14 using the cell phone, defendant attempted to perform acts to
15 facilitate the extortion, and he did something that was a
16 substantial step toward committing the extortion.

17 Now, you heard at length Donald Burns testify to the fact
18 that he had fear of various types of reputational harm. He was
19 afraid that, if the threats came to be, there would be harm to
20 his personal relationships, lost business opportunities, and
21 inability to donate wherever he wanted because people may not
22 want to deal with him after they find out the details of what
23 happened, potential higher interest rates in financing, and of
24 course embarrassment and humiliation which he's already
25 experienced as a result of this trial.

1 These are the types of harm that he feared when the
2 defendant began making his threats, and these are the types of
3 harm that the defendant leveraged to obtain the property that
4 he got. He leveraged these fears to obtain the Audi, the
5 \$500,000 wire, and almost to obtain another million dollars.
6 He used a cell phone in connection with his extortion scheme
7 and the communications traveled in interstate commerce.

8 Ladies and gentlemen of the Jury, the defendant is guilty
9 of Counts 1 through 6, and the United States asks that you find
10 the defendant guilty on all charges.

11 Thank you.

12 THE COURT: All right. Thank you. Now we'll hear
13 from the defense.

14 MR. CHOWDHURY: Thank you, Your Honor.

15 THE COURT: You may proceed when you're ready.

16 MR. CHOWDHURY: Thank you, Your Honor.

17 My client, Teofil Brank, he didn't extort Don Burns. He's
18 not guilty of these charges. This case is about three
19 things -- relationships, reputation, rules.

20 Relationships, you heard about the kinds of relationships
21 Don Burns has. You heard about the relationship or heard a
22 little bit about the relationship that he had with Mr. Brank.
23 Was it business? Was it personal? I would suggest it was
24 complicated.

25 Reputation, you heard Mr. Burns lives in a glass house,

1 literally and figuratively. He wasn't hiding anything. The
2 Government just got up and told you Donald Burns was afraid he
3 was going to be exposed as someone that used pay-for-sex
4 transactions, engaged in pay-for-sex transactions. You heard
5 the evidence. You heard Mr. Burns himself that Donald Burns
6 engaged in pay-for-sex transactions may be the worst kept
7 secret ever.

8 We were worried -- we were told that he was worried the
9 cat was going to be let out of the bag. We were told that
10 Mr. Burns was so scared that this cat was going to be let out
11 of the bag. There are lots of cats out of the bag, cats
12 running around everywhere. This was the worst kept secret
13 maybe ever.

14 And rules, you heard about Donald Burns' world, and we
15 learned that in Donald Burns' world different rules apply,
16 different rules than apply to the rest of us, different rules
17 than we experience in our lives.

18 Let's start by talking about the different rules in
19 Donald Burns' world. What is that world? The prosecutor just
20 told you Donald Burns doesn't just own yachts. He owns a
21 company that makes yachts.

22 Mr. Burns has enormous wealth. He sold his company for
23 \$1.1 billion. He's worth \$138 million. The prosecutor told
24 you Mr. Burns told you he has houses. He has houses in
25 San Diego, in Nantucket, in Palm Beach. He flies on private

1 jets. He moves around in the most elite circles of the world.
2 He's in Paris meeting with the American ambassador of France
3 with his porn star friend. And with that different world that
4 Mr. Burns lives in are different rules.

5 What do we know about that? Different rules apply to
6 Mr. Burns. He walked into the FBI office with his attorney,
7 with his private investigator that he had retained. Didn't
8 report this supposed extortion right away. Had his
9 investigation team work up on it. He has an investigation
10 team, some private investigation team. He has an attorney
11 advise him for a while. They decide who should we talk to?

12 He walks into the FBI's office, and he says I believe I'm
13 a victim of extortion by Mr. Brank. We've had this
14 relationship going back two years. I pay for sex. I pay him
15 to bring other people for sex. Here's my phone. You can
16 search it between the dates of February 16, 2015, and
17 March 4, 2015. That's about two weeks. Mr. Burns says just
18 search two weeks of my phone. Search two weeks of my phone.
19 Nothing more. There's a lot of private stuff on my phone.
20 Don't search anything else. Just search that. And what does
21 the FBI say? The FBI says, yes, Mr. Burns. That's what we'll
22 do.

23 You heard from Agent Bouman yesterday. He told you he
24 wanted to search for more on Mr. Burns' phone beyond that two
25 weeks out of two years. He wanted to search for more. He said

1 he could have -- could have gotten a search warrant, could have
2 searched for more, but he didn't. Why didn't the FBI search
3 for more on Mr. Burns' phone? Because Mr. Burns didn't want
4 them to. There are different rules that apply to someone like
5 Mr. Burns.

6 Mr. Burns is telling the FBI I'm engaged in prostitution,
7 I'm flying people, young men to engage in prostitution at my
8 house and paying them. Mr. Burns is not charged with anything.
9 He says he doesn't have immunity. Did he look like someone who
10 is worried that he's going to get charged with anything? Did
11 he seem to you like he's worried that I'm admitting under oath
12 to all sorts of criminal activity? Did he look like he was
13 worried he was going to get prosecuted for anything? Different
14 rules apply for someone like Mr. Burns.

15 Let's talk about that phone again for a second. Why
16 didn't Mr. Burns want the FBI to look beyond that two weeks?
17 Two weeks out of two years. Tiny little sliver of time. The
18 FBI knows that Mr. Burns and Mr. Brank have had this
19 relationship going back for two years, but Mr. Burns wants them
20 to only look at two weeks on his phone, and that's what they
21 do. They wanted -- the FBI wanted to look for more. They
22 could have looked for more, but they didn't. Different rules
23 apply to someone like Mr. Burns.

24 Now, what was on that phone? The rest of the two years,
25 beyond the two weeks that Mr. Burns said, that's okay, FBI, you

1 can look at that but nothing else because I've got private
2 stuff on there. What was on that phone? Surely there was a
3 lot about the relationship between Mr. Brank and Mr. Burns that
4 had been going on since 2013 for two years.

5 The Government got up, read you these text messages that
6 start on February 16, 2015. Mr. Burns read them out on the
7 stand the other day. And the Government and Mr. Burns would
8 have you believe that the conversation that started there came
9 out of the blue from nowhere. Mr. Burns had no idea what this
10 was all about. It just came out of nowhere. Look at those
11 text messages. Look at them. That's a conversation in
12 midstream, a conversation that's been going on for two years, a
13 conversation that has involved promises, promises broken, words
14 not kept. We know there's more to it. The Government didn't
15 choose to tell you about that. They didn't choose to show you
16 that.

17 MS. JAIMEZ: Objection, Your Honor. Facts not in
18 evidence. There are no --

19 THE COURT: The objection is overruled.

20 MR. CHOWDHURY: It's a different world, different
21 rules. The Government doesn't want you to hear about that.

22 Mr. Burns and the Government tried to portray this
23 relationship that Mr. Burns and Mr. Brank had as just
24 transactional. Apparently Mr. Burns -- the Government wants
25 you to think of Mr. Brank as just another one of the people

1 that Mr. Burns hires to do things. He hires attorneys. He
2 hires private investigators. He buys yacht companies. He has
3 someone in San Diego that lives at his house when he doesn't
4 live there because he has other houses. He says Mr. Brank is
5 just an employee. I pay him for the sex. That's what it is.
6 It's an arm's length transaction. There's nothing more to it.

7 Look at the texts that we do have. That's not simply a
8 business relationship. It's personal. They're both talking
9 about the good times when they were friends. It's much more
10 than just the envelopes of cash that you heard about from
11 Justin Griggs. It's much more than just that. How do we know
12 that? Mr. Burns was asked, well, you paid for sex with
13 Mr. Brank a number of times. Was there ever a time you didn't
14 pay him for sex? And he says, no -- well, wait. Hold on a
15 sec. There was that one time at the Bel-Air Hotel. I called
16 Mr. Brank. Mr. Brank came over, and he was my guest. Did you
17 pay him? No. No. Exactly the opposite, Mr. Burns said. I
18 told him I was unable to pay. Those are his words.

19 Mr. Burns who, as he told you, was carrying on multiple,
20 multiple pay-for-sex encounters all over the country. He was
21 worth \$138 million who supposedly pays these young men that he
22 pays for sex 2,000, \$1,500. He told you he didn't care about
23 the \$2,000 in Massachusetts. He doesn't care about that amount
24 of money. He said he was unable to pay. That was his
25 testimony on the stand under oath to you. He was unable to

1 pay. Does that make any sense?

2 The Government wants you to believe someone who goes up
3 there, admits he's worth \$138 million, says he was unable to
4 pay for the night of sex with Mr. Brank. Maybe it's a
5 Goldman Sachs account that's been cleaned out. Maybe he was
6 worried about checks bouncing. Different rules apply to
7 someone like Mr. Burns apparently.

8 What do we know about the kinds of relationships Mr. Burns
9 had with porn stars, porn stars like Mr. Brank? We heard about
10 Mr. Amadon, Mackinzie Amadon. We heard about Justin Griggs.
11 It worked out for Mackinzie Amadon. Mr. Burns kept his
12 promises, kept his word. He wasn't just offering Mr. Amadon
13 the cash. He was offering him a promise to lift you out of
14 porn, to change your life, to make things better for you, to
15 introduce you to the right people, to pay for school, to give
16 you a monthly stipend. He gave him \$200,000 over a year and a
17 half and God knows how much more flying him to Paris taking him
18 to the finest restaurants. Mr. Burns says, well, they weren't
19 always fancy. Perhaps every now and again they slumped it and
20 went to In-N-Out. But you saw how that changed for Mr. Amadon.

21 Mr. Burns is proud. He's no longer in porn. Mr. Amadon's
22 videos are still out there. His Sean Cody's videos -- his porn
23 videos are out there. But Mr. Burns carried through on the
24 promises to Mr. Amadon. Mr. Griggs, he told you he felt, yeah,
25 maybe I should have gotten \$150,000. He told you he was upset

1 when he found out that Mr. Brank was getting money, was getting
2 paid by Mr. Burns. Mr. Griggs felt it was unfair. "I did so
3 much for him just as Mr. Brank. What did he do?" Mr. Griggs
4 was his friend. He talked to him. He had sex with him. He
5 felt that they had a friendship, and part of that friendship
6 Mr. Burns would offer him some more money if you brought him --
7 if Mr. Griggs would bring him more young men.

8 And Mr. Burns treats these young men like this -- he
9 treats these young men like this. He makes these promises, and
10 he wants to tell us, here, they don't mean things to me.
11 Mr. Amadon, that's different. But Mr. Brank didn't mean
12 anything to me. He stopped communication with Justin Griggs.
13 Justin Griggs was discarded. Mr. Brank was discarded. People
14 are disposable. Some people collect cars. Mr. Burns had a
15 number of cars. He didn't know which car Mr. Brank was
16 referring to initially. It's a nice problem to have. Too many
17 cars you lose track which car we're talking about. Some people
18 collect stamps. Mr. Burns collects young men and has
19 apparently an insatiable appetite, and he would tell us they
20 don't mean anything to him.

21 But we saw Mr. Brank believed -- obviously you can see
22 from the texts that you do have that it was something more,
23 that there were promises, that he expected something more just
24 like Mr. Amadon got, maybe even more. It's not simply a
25 business transaction. It's not that. It's complicated.

1 And how much is that worth? You'll see in the
2 instructions -- and the Court will tell you -- the Government
3 has to show that Mr. Brank knew he's not entitled to what he
4 asked for, that it wasn't a legitimate claim. Who's telling us
5 that it was too much? Mr. Burns.

6 Did we hear from any expert that told us what the value of
7 everything that Mr. Brank did for Mr. Burns, what that was?
8 Does anyone know? I don't know. Do you know? Who's telling
9 us? Mr. Burns is telling us that's too much. He paid the
10 500,000, gave him the car. But the million, that was too much.
11 Is there somewhere we can check? Can we check somewhere on
12 Amazon? eBay? Zillow? Is there a stock market somewhere for
13 these kinds of transactions and this kind of relationship? It
14 doesn't fall into any neat little box, sex, bring other young
15 men, be your friend, be your companion. How much is that
16 worth? And if you don't know and we don't know, the Government
17 has given us nothing to know what all of that was worth. If we
18 don't know, how can we find that the Government has shown
19 Mr. Brank knew he wasn't entitled to the money and property he
20 asked for? They haven't shown us that.

21 Reputation. Again, it's a different world, different
22 rules. Mr. Burns lives in a glass house, wants to keep his
23 secrets. He lives in a glass house literally and figuratively,
24 but claims he was scared of being exposed. Claims -- and the
25 Government told you just now, claims he was afraid that

1 Mr. Brank would expose that he paid for sex. Let's just be
2 real about it. Mr. Burns did not act in any way as if he was
3 scared about anyone finding out that he paid for sex. It was
4 the worst kept secret in the world.

5 He even said, look, it's not a secret. He had a taste for
6 young men. He's been pretty open about that. You've seen the
7 evidence, not something he tried to keep secret. He's not
8 scared to be associated with the porn stars. You saw the
9 evidence about that. You heard the evidence about that.
10 Mr. Burns is open about that. He's not hiding that in any way.
11 Do you really think he's scared that people are going to say,
12 well, Donald Burns is hanging out with these porn stars. He's
13 old enough to be their dad. What's going on there?

14 Look, some of you may have been born at night, but I don't
15 think any of you were born last night. It is not in any way
16 consistent with the evidence to argue that Mr. Burns was scared
17 about his reputation that people might find out that he was
18 paying for sex.

19 Let's talk about that glass house. You heard he wanted to
20 arrange a pornography shoot in his glass house. The Sean Cody
21 people said, hey, this glass house, too much glass. Not enough
22 privacy. So we can't do it here. You heard from the Sean Cody
23 people Mr. Burns said, hey, this would be cool. This would be
24 something I could brag about to my friends. Okay. So we could
25 say, well, look, that's different. That's about having a

1 pornography shoot, watching a pornography shoot. It's not
2 paying for sex. There's a difference. It's totally different.
3 Okay.

4 Sean Cody people also told you, well, sometimes we had
5 problems caused by Mr. Burns because our actors were supposed
6 to be on set but we found out they were working for Mr. Burns.
7 Mr. Burns had hired them for the weekend, hired them, flew them
8 out to wherever, Nantucket or Palm Beach or whatever it was.
9 The Sean Cody people knew that. It wasn't a secret that
10 Mr. Burns had engaged their workers, their stars, their porn
11 stars. They couldn't be on set because they were getting paid
12 elsewhere, maybe a better deal, to work for Mr. Burns to do
13 overnight work.

14 Mr. Burns is worried that the cat is going to come out of
15 the bag. There are many, many, many cats out of the bag
16 running around. It's the worst kept secret.

17 He travels with Amadon. He introduces Amadon to the
18 American ambassador to France. He introduces him to people
19 running for Congress. He has pictures taken with him.
20 Mr. Burns told us how the internet works, computers talk to
21 computers, things goes viral. Anyone can write anything. It
22 will spread. You saw those photos. He told you there are
23 articles that are being published.

24 Mr. Burns told you how easy it is to find people on
25 Facebook. Apparently that's what Mr. Burns does. He finds

1 people that he wants to put on his list, his sexual shopping
2 list. He finds them on Facebook, tracks them down, sifts
3 through, says he can go to the Sean Cody owner's Facebook page,
4 and then he can find the real identities of the stage names of
5 these people. Mr. Burns knows all about that.

6 He's really saying he's worried when he's traveling around
7 with Mr. Amadon who he introduces to his friends as a porn
8 star. His friends understand that Mr. Amadon is getting
9 benefits, is benefiting by being Mr. Burns' traveling
10 companion? Again -- and in no way to disparage Mr. Burns, but
11 he's 52 years old hanging out with these young fit beautiful
12 men, porn stars, taking them around the world. And he wants us
13 to believe -- he wants you to believe that he was terrified,
14 terrified, shaking, unable to type on his iPhone that someone
15 might find out, that people might find out that he was paying
16 for sex. Does that make any sense?

17 Mr. Burns was putting himself out there. You saw the
18 e-mails. He's out there recruiting. He's tracking down people
19 to put on his list. He's making a wish list, making a list,
20 checking it twice. Found these people on Facebook, contacted
21 people he did not know, got their phone number from other
22 people, contacted them, and say, hey, I've got a proposal for
23 you. I don't know if he sent the emojis that Justin Griggs
24 talked about.

25 And some of these people you saw, they said, wait, wait a

1 sec, that sounds illegal. Did that stop Mr. Burns? No. Puts
2 that person back on the list and says, hey, Teo, this guy,
3 contacted him. Said, no, thanks, sounds illegal, see you
4 later. Mr. Burns didn't let it go. He's going to get what he
5 wants.

6 He made no attempt to hide his identity. He's contacting
7 these people. He's not using an alias. He's not pretending to
8 be someone else. He's not hiding his identity at all. He's
9 contacting them putting himself out there. There's no
10 agreement, no understanding of confidentiality, and proposing
11 to these people, "Hey, I'm going to pay you for sex. What do
12 you think?" Some said yes; some said no way. Mr. Burns is not
13 hiding the fact he's reaching out for people to pay for sex.
14 Not at all.

15 Obviously, also, different rules apply. Not worried at
16 all that someone is going to say, hey, wait, that's illegal.
17 I'm reporting you. Mr. Burns does not have those concerns.
18 You saw him he testify. Did you see him concerned?

19 He flies out -- you heard about how he arranges his group
20 sex parties. Some people call them orgies. He puts multiple
21 young men on a plane. Justin Griggs told you he got on a plane
22 to go to Mr. Burns' special house on the island. Mr. Burns
23 knows all about young people and social media. That's how he
24 finds them. You heard there's no confidentiality agreement.
25 There's no understanding like keep your mouth shut. None of

1 that came up with Justin Griggs until this case started.

2 So Mr. Griggs {sic} is flying out 20 somethings, 30
3 somethings. We know about that. We know about 20 somethings
4 and 30 somethings and social media. They take pictures of what
5 they eat for lunch. They tweet "I'm going to take a nap now."
6 Tweet a couple minutes later "woke up from my nap." That's
7 what people do on social media. And Mr. Burns has no agreement
8 with them about, hey, wait, nothing -- ixnay on the Instagram
9 about the Nantucket trip. Ixnay on the Snapchats from our
10 special weekend in Palm Beach. None of that.

11 Mr. Burns is not trying to hide anything. He's not
12 worried. Did he look worried up there to you? That Mr. Burns
13 is paying for sex is the worst kept secret in the world. He's
14 not worried. Different rules apply to someone like Mr. Burns.
15 Nothing bad is going to happen out of this to Mr. Burns. You
16 be the judge. You saw him up there.

17 And with the recruiting, Mr. Burns is not just trying to
18 recruit. He wants to spread the word, spread the word, guys.
19 Here's a referral fee. Spread the word. Bring in more people.
20 Introduce them to me. Let them know about my pay-for-sex
21 transactions that I'm offering. It's a good time.

22 Okay. You saw Mr. Burns on the stand. He said -- he said
23 the words. He said he was embarrassed, he was ashamed, he
24 feared for his reputation. You saw him testify. You're the
25 jury. You get to decide what you believe about what Mr. Burns

1 said. You know actions speak louder than words. You heard
2 about his actions. You heard his words here over two days, and
3 it really was a tail of two days of testimony, wasn't it?

4 The first day Mr. Burns comes in here smooth as silk.
5 Matter of fact. Just tells you straight up, yeah, paid for
6 sex. Flew the people out for sex, had the group sex parties.
7 That's what I did. And he was a great witness. He was perfect
8 and polished and trained. He was polite. He kept track of how
9 many times the prosecutor asked him a certain question. "You
10 asked me that three times." He would after the question wait,
11 pause, turn to you, make eye contact with some of you because
12 Mr. Burns hires people to help him. He was a great witness.
13 He was perfectly trained. But did he seem embarrassed? Did he
14 seem ashamed? Did he seem embarrassed to be talking about it?
15 Did he seem worried that anything was going to happen to him?
16 Different rules.

17 Now, something happened between the first day and the
18 second day. The second day he's asked the same question again
19 for the third or fourth time, "What were you worried? About
20 what was the harm?" And then tears. Maybe the decision was
21 with Mr. Burns' team. Maybe the decision was, hey, look,
22 you're supposed to convince them that you were worried, really,
23 really, really worried, terrified, shaking that someone was
24 going to expose that you were paying for sex. Let's try
25 something different.

1 MS. JAIMEZ: Objection, Your Honor. Lacks
2 foundation. Misstates testimony.

3 THE COURT: Objection is overruled.

4 MR. CHOWDHURY: Different rules apply to someone
5 like Burns. The Government is going to tell you use your
6 common sense. Use your common sense. This is not a
7 complicated issue. This is not a complicated case. The
8 Government wants to come in here, present slide after slide
9 about how Mr. Burns was so terrified for his reputation, so
10 terrified, shaking in fear that the world would find out that
11 he was paying for sex. Use your common sense. You don't need
12 a law degree to do that. It's pretty simple.

13 Okay. So some of you, I'm sure, are looking at me like,
14 come on, what are you talking about? What about these bad
15 facts? Look, we heard about a million dollars. What are you
16 going to say about that? We heard about the million dollars.
17 We saw those scary grainy photos. He's wearing a hoodie. What
18 about that? We heard about some gun. What about that? We
19 read these text messages. What are you going to say about
20 that? And that tweet, the warning tweet, what are you going to
21 say about that? Let's talk about it.

22 The million dollars, seems like a lot of money to us.
23 Seems unimaginable. Million dollars. Do you know what else is
24 unimaginable? Unimaginable? Selling a company for
25 \$1.1 billion, being worth \$138 million, having houses all over

1 the country, flying around in private jets. Not just owning a
2 yacht, owning the company that makes yachts. Too much. It's
3 too much we're told by Mr. Burns. That's too much. Mr. Brank
4 wasn't worth that.

5 We don't know that for two reasons, two reasons. First,
6 it's just Don Burns telling us that. No one came in here. The
7 Government made no attempt to establish what's the fair market
8 value of everything that Mr. Brank did for Mr. Burns? What
9 could he expect in the promises that Mr. Burns had made to him?
10 There's nowhere to check. There's no expert. There's no
11 market. We weren't shown any of that. We don't know. I would
12 submit we don't know because the Government hasn't shown us
13 what the value of everything that Mr. Brank did for Mr. Burns,
14 what that was.

15 They're going to try to break it down and say each sexual
16 transaction was worth that much and also there was an
17 established referral fee for each time he would bring him a new
18 man. There would be a referral fee and maybe a tip. But we
19 saw -- and we saw the evidence. You saw Amadon. You saw
20 Griggs. You know that it's not simply a business transaction.

21 Again, what's the second reason why we don't know that the
22 amount that Mr. Brank asked for was too much? We've got that
23 sliver on the phone, two weeks out of two years. We didn't
24 hear because Mr. Burns didn't want you to, didn't want the FBI
25 to, didn't want the prosecutors to, and now didn't want you to

1 see the rest of the story, what other promises were made, what
2 other understandings they had. That conversation that the
3 prosecutors have read to you, that Mr. Burns has read to you,
4 you know that's a conversation that's in midstream. You know
5 that there's more to that.

6 The scary grainy photos. Mr. Burns put on a performance
7 for you. The prosecution is putting on a performance for you.
8 They're showing you the scary grainy photos. You heard from
9 Agent Sterle. He was the first witness. He got up there. He
10 said, that Starbucks parking lot, that's my favorite parking
11 lot. All sorts of crazy stuff goes down there. We took down
12 these really dangerous people there.

13 And they show you these pictures of Mr. Brank. You can
14 imagine going through the grainy pictures, yes, and this one he
15 looks like a zombie. He's got a hood on. He's really scary,
16 and he's out there, and he's walking around in the parking lot.
17 What did Mr. Brank come armed to that meeting with at the
18 Starbucks? A pen. We saw the video -- I don't know how long
19 it went on -- of him sitting there with Agent Sterle saying,
20 "Do I sign on this document? Will the DMV -- do you want me to
21 sign here? Do I put my full name here? Am I owner? The
22 buyer?" Maybe he came armed with a pen because you heard from
23 the agents he certainly didn't have a gun. They arrested him.
24 They checked him. They patted him down. No backpack. No gun.
25 So I'm not really sure what the scary picture is about. I

1 guess they want you to think, well, look, he was hiding. He
2 sat down awkwardly. I guess file that in your evidence bin.
3 He sat down awkwardly. The picture itself at the end of the
4 day, we got nothing out of that. We didn't get the gun.

5 Let's talk about the gun for a second. It's a red
6 herring. There's no gun charge here. Mr. Yim didn't have a
7 gun charge. This is not a gun case. It's an extortion case,
8 and the Government wants you to fixate on the gun. The
9 evidence we heard that this gun -- Mr. Yim got it from his
10 friend. It was unloaded. Mr. Yim himself was not charged with
11 a gun charge.

12 And just a word about Mr. Yim. Mr. Yim has pled guilty.
13 He's cooperating with the Government. He told you. The
14 Government wants you to believe this person who has pled
15 guilty, who is guilty of a crime, who was convicted. Mr. Brank
16 is not guilty of anything.

17 The text messages, as we said, we got those midstream.
18 You know that you only got two weeks out of two years. There
19 was more to that relationship. And if you look at the words,
20 you can tell the Government is twisting some of those words.
21 You can tell Mr. Brank's e-mails, sometimes the grammar doesn't
22 make sense, et cetera. Look at them. You can tell they're
23 being twisted.

24 Finally, the tweet. "How many porn stars know a man named
25 Don?" We've talked about that. That is not a threat to

1 Mr. Burns. "How many porn stars know a man named Don?" Don is
2 out there with porn stars. He's flying them around. He's
3 contacting them. You saw the photos. They're in evidence.
4 Mr. Burns was open about that. The tweet was directed to other
5 porn stars, asked, "How many porn stars know Don?" There's no
6 threat there to Mr. Burns, nothing that isn't already out
7 there.

8 The Court is going to give you the instructions. As I've
9 suggested, I ask you to focus on two of the instructions in
10 particular. The fear of reputational harm. Consider what
11 we've talked about. Do you believe the Government has shown
12 beyond a reasonable doubt that there was any fear that
13 Mr. Burns had about his reputation? Was it reasonable for
14 anyone, given this context, to fear for his reputation?

15 And the second point, the Government will have to show on
16 the extortion counts, Counts 1, 2, and 5, that Mr. Brank knew
17 he was not entitled to what he asked for, he had no legitimate
18 claim to it. We talked about that. Ask yourself if you know
19 what the actual value of what Mr. Brank did for Mr. Burns and
20 what was promised to Mr. Brank in exchange.

21 Counts 1, 2, and 5 are the extortion counts. The
22 Government, I don't think, will disagree on their slides. They
23 put up the incorrect law on Count 6, and I think they'll
24 correct that. But if Counts 1, 2, and 5, if Mr. Brank is not
25 guilty on Counts 1, 2, and 5, it follows. He's not guilty on

1 the other count. You can look at the instructions. If the
2 Government disagrees with me, they'll tell me when they stand
3 up.

4 Now, from the beginning of this case, since you've been
5 sworn in as jurors, you've taken an oath. You've taken an oath
6 to uphold several very important points. The burden of
7 proof -- the burden of proof is on the Government. The burden
8 of proof is on the Government to prove every element of these
9 crimes beyond a reasonable doubt.

10 Presumption of innocence. You saw -- we saw slide after
11 slide of these six charges. As the Court has told you, the
12 charges are not evidence. You'll get an Indictment. It's not
13 evidence. There's been no finding of guilt of Mr. Brank.
14 That's your job to determine whether he's guilty or not guilty.
15 The Government can bring whatever charges they want to bring.
16 It doesn't mean anything about Mr. Brank's guilt.

17 It's a simple case. You can ask yourself why are we
18 getting this long thick stack of charges? The presumption of
19 innocence has been with Mr. Brank since the beginning. It's a
20 cloak that he's wrapped in. He remains presumed innocent up
21 until the time that the Government proves its case against him
22 on these charges beyond a reasonable doubt. Up until that
23 point he's presumed innocent, as we all are. And that is
24 something we're protected under our Constitution in the event
25 that any of us are accused wrongly of a crime, perhaps someone

1 like Mr. Burns comes in and accuses someone of a crime, accuses
2 Mr. Brank of a crime. Mr. Burns wants to paint a picture of
3 Mr. Brank, but he's presumed innocent until you -- until the
4 Government proves his guilt beyond a reasonable doubt.

5 What is beyond a reasonable doubt? It's the highest
6 standard we have in the law. It's the kind of standard you
7 would want to apply if you're making the most important
8 decisions in your life. You want to be as certain as you can
9 be. The Government is right. You can never eliminate all
10 doubt. Nothing in life has no doubt. That's impossible. But
11 we create the highest standard because what we're doing here is
12 final for Mr. Brank. You have his fate in your hands. His
13 life is in your hands. What happens here changes his life.
14 It's permanent. That's why we have a beyond a reasonable doubt
15 standard.

16 It's a standard you would use in making the most important
17 decisions in your life. If you have a child that needs
18 surgery, if you have a loved one wanting to take off life
19 support, before you do that, you want to be as certain as you
20 can be. You can never eliminate all doubt, but you want to be
21 as certain as you can be, and that's what the law -- that's
22 what your duty is, the oath you've taken. Unless the
23 Government proves all of these elements beyond a reasonable
24 doubt, the Court will tell you you must find Mr. Brank not
25 guilty. That's the law. That's the Constitution. That's what

1 the judge will tell you to do in following your oath as jurors.

2 Finally, sometimes there can be this feeling like let's
3 get out of here. I understand that. Let's beat traffic.
4 Let's get home. Let's be done with this. What's the point?
5 Let's just get to a decision. What you're doing is you have --
6 you've been invested with great power here. You decide -- no
7 one can decide. The judge is not going to be in that room with
8 you. The prosecutor is not going to be in that room with you.
9 I'm not going to be in that room with you. You will be in that
10 room alone with Mr. Brank's fate in your hands, and it's final
11 what you decide.

12 If you decide this weekend you're brushing your teeth and
13 you're like, hey, wait a sec, maybe Mr. Brank -- he could have
14 been entitled to that, you can't call Judge Walter and say,
15 Judge, I want to take my vote back. If you decide next week,
16 maybe Mr. Burns didn't fear for his reputation. You can't call
17 the prosecutor and me and say I want to take my vote back.
18 This is final.

19 So I would ask you, I would urge you to, I would beg you
20 to take your time. Go through the evidence, discuss it fully.
21 And if you find maybe you're in the minority, maybe you don't
22 agree with the rest of the group, to hold on to your
23 convictions, your viewpoint. Discuss it with the group. If
24 they convince you with others, if they show you why the
25 evidence shows perhaps they're right and you're wrong, that's

1 what deliberations are for. But don't join a group just to
2 join.

3 What you're doing back there is something protected by the
4 Constitution, and this is something that we fight for. They
5 don't have this all over the world. What you're doing here is
6 special. I just want you to go in there knowing that.

7 So I'm going to sit down in a second. It's my last chance
8 to speak to you, the last chance defense has to speak with you.
9 That's the rules. The Government is going to get up. They're
10 going to respond. They're going to try to respond. They're
11 going to respond to what I said. I'm not going to be able to
12 say anything after that, and I would just ask you, as you're
13 listening to them, to keep in mind, think about what would the
14 defense say in response? What questions would they ask? Has
15 the prosecution answered our questions?

16 This case is about three things -- relationships,
17 reputation, and rules, and different rules that apply to
18 someone like Mr. Burns. I think the evidence points in only
19 one direction. Mr. Brank is not guilty.

20 THE COURT: All right. Thank you very much.
21 Government.

22 MS. JAIMEZ: Thank you, Your Honor.

23 "How do I know you won't report me for extortion?" "Who
24 wants to be friends with blackmail?" "What if the feds show up
25 and I'm fucked?" "Shoot if someone starts shooting." "I can

1 bring your house down, Don."

2 This is a case about extortion. This is not a case about
3 prostitution or relationships. Actions do speak louder than
4 words as defense counsel has said, and the defendant's actions
5 speak volumes.

6 He texted threats in interstate commerce. He texted the
7 words "extortion," "blackmail." He said he would bring the
8 tweet down if, only if, he was paid. He posted on Twitter. He
9 said that he would only take it down if he had both hands full
10 of cash. That's what he indicated. Then after he got his
11 money and the Audi r8, which he was so fond of, he demanded
12 more money. And when he went to go pick up that money, he got
13 a gun and said to shoot if people start shooting. Actions do
14 speak louder than words.

15 The defendant's actions show that he knew he was not
16 entitled to this property. Why would he have to bring a gun if
17 he was entitled to \$1 million, \$500,000, an Audi r8? Why would
18 you need a gun?

19 Now, the defense says that Donald Burns had the worst kept
20 secret, the cat was out of the bag, but the defense has
21 misconstrued what the secret was. The secret was not that
22 Donald Burns associated with good looking young men or that
23 Donald Burns associated with pornography actors. He was a
24 wealthy man. Wealthy men associate with good looking younger
25 people sometimes.

1 The secret was that he was engaged in prostitution. The
2 secret was that he was paying people for group sex every three
3 to six weeks. That's criminal activity, and he did not want
4 that out there because it would affect his business reputation.
5 It would affect his reputation in the community. It would
6 affect his interpersonal reputations, and it would be
7 incredibly embarrassing notwithstanding the criminal liability.
8 That was the secret he wanted to keep from getting out.

9 And the defense has not offered any evidence that that was
10 a well --

11 MR. CHOWDHURY: Objection. Burden shifting,
12 Your Honor.

13 THE COURT: The objection is overruled.

14 MS. JAIMEZ: There is no contrary evidence to this
15 fact. There is no evidence that the public knew that
16 Donald Burns was engaged in pay-for-sex activity. Absolutely
17 none. To the contrary, Donald Burns said on the stand that he
18 didn't tell people that. He didn't even tell many people that
19 Mackinzie Amadon, his good friend, had been a pornography actor
20 at some point. Only a close group of friends knew that part.
21 He didn't go around telling people he was engaged in
22 prostitution. Who would?

23 This is not a case about prostitution. Donald Burns
24 admitted to those acts, and he told you he has not been offered
25 immunity. He could suffer consequences, but that's not an

1 issue for you to consider. The only issues for you to consider
2 today are charges 1 through 6 dealing with extortion and the
3 defendant's conduct, and the defendant's conduct and his words
4 are clear.

5 Now, the defense has mentioned that Donald Burns is
6 wealthy and that he had attorneys and private investigators.
7 This is true. This is what made him the perfect target for
8 extortion. He was a wealthy man with terrible secrets. That's
9 the person you want to extort. Not your next door neighbor who
10 goes to church every Sunday who doesn't have much money.
11 That's not a wealthy venture there. You want to extort the
12 person with money and secrets, and that's what the defendant
13 did here using a telephone in connection with his extortion.

14 And, yes, with respect to Count 6, you are going to want
15 to consider did he use a facility of interstate commerce in
16 connection with extortion as defined in the counts, not under
17 California state law.

18 Now, the defense also talked at length about what the fair
19 market value of the defendant's services was and said that the
20 Government hadn't proven, hadn't offered expert testimony about
21 what the fair market value of pimping is. There is no fair
22 market value for pimping. All we know is what Donald Burns
23 paid. He paid people \$2,000 for referral fees, and he paid
24 them \$2,000 for sexual contact. Griggs corroborated that.
25 That's all you need to know about that point. And, in fact,

1 it's not even relevant to these charges because, again, this
2 case is not about prostitution. It's about extortion, and the
3 defendant himself says "extortion," "blackmail" in his text
4 messages.

5 The defense also talks about the limited search of
6 Donald Burns' phone over and over again. Remember, we also
7 searched the Government -- the Government also searched the
8 defendant's cell phone, got a search warrant, searched the
9 entire cell phone. There was not one shred of evidence of any
10 type of agreement between Donald Burns and the defendant to the
11 tune of \$1 million or \$500,000 or an Audi r8. No indication
12 that Donald Burns ever made such promises to the defendant.

13 But the FBI went beyond just extracting the defendant's
14 phone. Agent Bouman testified that they did additional
15 investigation. They sent subpoenas. They extracted other
16 phones. They had witness interviews. All of it corroborated
17 extortion. Not one piece of evidence about some promise or
18 some agreement that never was between the defendant and
19 Donald Burns.

20 The only agreement they had was a pay-for-sex agreement
21 where sometimes the defendant would have sex with Donald Burns
22 for \$2,000 or thereabouts and sometimes he would refer people
23 for sex. One time it didn't work out and defendant kept the
24 \$2,000 referral fee. So it's the defendant who in fact owes
25 Donald Burns if we want to be technical. There's no evidence

1 that Donald Burns ever owed defendant for anything.

2 Defense mentions one time that Donald Burns had sexual
3 contact with the defendant without paying. Surely, surely that
4 sexual contact was not worth \$1.5 million and an Audi r8.
5 Surely. That cannot be the argument.

6 The defense says there's more to the story. The
7 Government has investigated it thoroughly. There was no
8 evidence of any other story. Defendant wanted the car. He got
9 the car by extorting Donald Burns. Defendant wanted both hands
10 full of cash. He got the \$500,000 by threatening to expose
11 this pay-for-sex arrangement.

12 Defense says the gun is a red herring. The gun evidence
13 is his intent, his state of mind. Remember, we can't look into
14 the defendant's mind and know what he's thinking. We have to
15 look at his actions. We have to look at his words. His words
16 said extortion. His words said blackmail. His actions said
17 get a gun and start shooting if someone shoots.

18 The defense also mentioned Mackinzie Amadon. Donald Burns
19 talked about Mackinzie Amadon at length. It's a relationship.
20 That is a relationship. That is a relationship that grew from
21 a pay-for-sex meeting, and there is financial support on a
22 monthly basis. And the aggregate amount of that financial
23 support, what was it? \$200,000. Nowhere near \$1.5 million and
24 an Audi r8 valued at \$180,000, and it was provided on a monthly
25 basis, and it was provided in the context of a true

1 relationship. And there was no agreement. There was no
2 promise. There was no demand from Mackinzie. Mackinzie never
3 said give me this support; otherwise, I will expose you for
4 what you are. There's no evidence to that. Quite to the
5 contrary.

6 The defense says over and over again that there must have
7 been something more, must have been something more. The
8 defendant feeling entitled does not mean he has a right to
9 \$1.5 million and an Audi r8 valued at \$180,000. Him feeling
10 like he wanted to be in Mackinzie Amadon's place does not give
11 him a right to that property.

12 Now, the Government has the burden in this case. That's
13 entirely correct. We have the burden, and we've met that
14 burden. We've provided you evidence of the fact that he sent
15 threatening communications in interstate commerce. He
16 threatened Donald Burns' reputation, and that threat had a
17 probable effect on interstate commerce because of the fact that
18 he's involved in so many different businesses, charitable
19 organizations, and the fact he uses his Goldman Sachs account
20 in New York to wire money. The Government has met its burden.

21 The Government does not need to disprove prostitution.
22 That is not the question of this case. The question is whether
23 or not the defendant sent threatening communications with an
24 intent to extort, whether or not the defendant extorted on
25 February 16 and obtained money and a car, whether or not the

1 defendant attempted further extortion on March 3rd to get
2 another \$1 million, whether or not he received extortion
3 proceeds. He did -- an Audi r8, \$500,000 wire transfer. And
4 whether or not he used a phone in connection with this scheme,
5 and he did, his Samsung phone which was extracted and
6 corroborates extortion.

7 The Government asks that you find the defendant guilty on
8 all counts.

9 THE COURT: All right. Thank you very much.

10 Before I begin reading the jury instructions, if there's
11 any member that wants to leave now, please do so.

12 All right. Members of the jury, now that you've heard all
13 the evidence, it's my duty to instruct you on the law that
14 applies to this case. A copy of these instructions will be
15 available in the jury room for you to consult. It is your duty
16 to weigh and evaluate all the evidence received in the case and
17 in that process to decide the facts. It is also your duty to
18 apply the facts as I -- apply the law, as I give it to you, to
19 the facts, as you find them, whether you agree with the law or
20 not.

21 You must decide the case solely on the evidence and the
22 law and must not be influenced by any personal likes or
23 dislikes, opinions, prejudices, or sympathy. You will recall
24 that you took an oath promising to do so at the beginning of
25 the case.

1 You must follow all of these instructions and not single
2 out some and ignore others. They are all important. Please do
3 not read into these instructions or into anything I may have
4 said or done any suggestion as to what your verdict -- what
5 verdict you should return. That is a matter entirely up to
6 you.

7 Now, as I've indicated at the outset -- and it's still
8 obviously very true -- the Indictment is not evidence. The
9 defendant has pleaded not guilty to each of the charges. The
10 defendant is presumed to be innocent unless and until the
11 Government proves the defendant guilty beyond a reasonable
12 doubt.

13 In addition, the defendant does not have to testify or
14 present any evidence to prove innocence. The Government has
15 the burden of proving every element of the charges beyond a
16 reasonable doubt.

17 Now, proof beyond a reasonable doubt is proof that leaves
18 you firmly convinced the defendant is guilty. It is not
19 required that the Government prove guilt beyond all possible
20 doubt. A reasonable doubt is a doubt based upon reason and
21 common sense and is not based purely on speculation. It may
22 arise from a careful and impartial consideration of all the
23 evidence or from the lack of evidence.

24 If after a careful and impartial consideration of all the
25 evidence you are not convinced beyond a reasonable doubt that

1 the defendant is guilty, it is your duty to find the defendant
2 not guilty. On the other hand, if after a careful and
3 impartial consideration of all the evidence you are convinced
4 beyond a reasonable doubt that the defendant is guilty, it is
5 your duty to find the defendant guilty.

6 Now, a defendant in a criminal case has a constitutional
7 right not to testify. You may not draw any inference of any
8 kind from the fact that the defendant did not testify.

9 A separate crime is charged against the defendant in each
10 count. You must decide each count separately. Your verdict on
11 one count should not control your verdict on any other count.

12 Now, the evidence that you're to consider in deciding what
13 the facts are consist of the sworn testimony of any witness,
14 the exhibits received into evidence, and any facts to which the
15 parties have agreed or stipulated to. The following things are
16 not evidence, and you may not consider them in deciding what
17 the facts are: Questions, statements, objections and arguments
18 by the lawyers are not evidence. The lawyers are not
19 witnesses. Although you must consider a lawyer's question to
20 understand the answers of a witness, the lawyer's questions are
21 not evidence. Similarly, what the lawyers have said in their
22 opening statements, closing arguments, and at other times is
23 intended to help you interpret the evidence, but it is not
24 evidence. If the facts as you remember them differ from the
25 way the lawyers state them, your memory of them controls.

1 Any testimony that I have excluded or stricken or
2 instructed you to disregard is not evidence. In addition, some
3 evidence was received only for a limited purpose. When I've
4 instructed you to consider certain evidence in a limited way,
5 you must do so. Also, anything you may have seen or heard when
6 the Court is not in session is not evidence. You are to decide
7 this case solely on the evidence received during this trial.

8 Now, evidence may be direct or circumstantial. Direct
9 evidence is proof of a direct fact such as testimony by a
10 witness about what that witness personally saw or heard or did.
11 Circumstantial evidence is indirect evidence, that is, proof of
12 one or more facts from which you can find another fact.

13 You are to consider both direct and circumstantial
14 evidence. Either can be used to prove any fact. The law makes
15 no distinction between the weight to be given to either direct
16 or circumstantial evidence. It is for you to decide how much
17 weight to give any evidence.

18 In deciding the facts in this case, you may have to decide
19 which testimony to believe and which testimony not to believe.
20 You may believe everything a witness says or part of it or none
21 of it.

22 In considering the testimony of any witness, you may take
23 into account the following: The witness' opportunity and
24 ability to see or hear or know the things testified to; the
25 witness' memory; the witness' manner while testifying; the

1 witness' interests in the outcome of the case, if any; the
2 witness' bias or prejudice, if any; whether other evidence
3 contradicted the witness' testimony; the reasonableness of the
4 witness' testimony in light of all of the evidence; and any
5 other factors that bear on believability.

6 The weight of the evidence as to a fact does not
7 necessarily depend on the number of witnesses who testify.
8 What is important is how believable the witnesses were and how
9 much weight you think their testimony deserves.

10 You have heard testimony from undercover agents who were
11 involved in the Government's investigation in this case. Law
12 enforcement officials may engage in stealth and deception such
13 as the use of undercover agents in order to investigate
14 criminal activities. Undercover agents may use false names and
15 appearances and assume roles of members in criminal
16 organizations.

17 The parties have agreed to certain facts that have been
18 stated to you. As I indicated during the course of the trial,
19 you should treat these facts as having been proved.

20 Now, the defendant is charged in Count 1 of the Indictment
21 with transmitting threatening communications with intent to
22 extort in violation of Section 875(d) of Title 18 of the
23 United States Code. In order for the defendant to be found
24 guilty of that charge, the Government must prove each of the
25 following elements beyond a reasonable doubt:

1 First, defendant knowingly transmitted in interstate or
2 foreign commerce a communication containing a wrongful and true
3 threat to injure the reputation of another, in this case
4 Donald Burns;

5 Second, the defendant did so with the intent to extort
6 money or something else of value from Donald Burns.

7 In determining whether a communication is a true threat,
8 you must find that it meets both an objective and a subjective
9 standard. As to the objective standard, a true threat is one
10 that would be understood by reasonable people hearing or
11 reading it in the context -- in context as a serious expression
12 of an intent to injure the reputation of another, in this case,
13 Donald Burns.

14 As to the subjective standard, a true threat is one that
15 the defendant subjectively intended to be understood as a
16 threat.

17 Intent to extort means to act with the purpose of
18 obtaining money or something else of value from another with
19 his consent by a wrongful threat to injure the reputation of
20 another, in this case, Donald Burns.

21 To transmit a communication in interstate commerce means
22 to send it from place -- from a place in one state to a place
23 in another state. To transmit a communication in foreign
24 commerce means to transmit it from a place in the United States
25 to any place outside the United States.

1 The defendant is charged in Count 2 of the Indictment with
2 extortion by nonviolent threat in violation of Section 1951(a)
3 of Title 18 of the United States Code. In order for the
4 defendant to be found guilty of that charge, the Government
5 must prove each of the following elements beyond a reasonable
6 doubt:

7 First, the defendant induced Donald Burns to part with
8 property by wrongful use of fear, specifically by wrongful
9 threat of reputational harm;

10 Second, the defendant acted with the intent to obtain
11 property;

12 And, third, commerce from one state to another was
13 affected in some way.

14 The defendant is charged in Count 3 and 4 of the
15 Indictment with receiving proceeds, property of extortion in
16 violation of Section 880 of Title 18 of the United States Code.
17 In order for the defendant to be found guilty of these charges,
18 the Government must prove each of the following elements beyond
19 a reasonable doubt:

20 First, defendant received, possessed, concealed, or
21 disposed of any money or property or other property;

22 Second, the property was obtained from the commission of
23 the offense charged in Count 1, namely, transmitting
24 threatening communications with the intent to extort;

25 Third, the defendant knew that the money or other property

1 had been unlawfully obtained.

2 Now, the defendant is charged in Count 5 of the Indictment
3 with attempted extortion by nonviolent threat in violation of
4 Section 1951(a). In order for the defendant to be found guilty
5 of that charge, the Government must prove each of the following
6 elements beyond a reasonable doubt:

7 First, the defendant intended to induce Donald Burns to
8 part with property by the wrongful use of fear, specifically by
9 wrongful threat of reputational harm;

10 Second, the defendant acted with the intent to obtain
11 property;

12 Third, commerce from one state to another state would have
13 been affected in some way;

14 Fourth, the defendant did something that was a substantial
15 step toward committing the crime. Mere preparation is not a
16 substantial step toward committing the crime. To constitute a
17 substantial step, a defendant's act or actions must demonstrate
18 that the crime will take place unless interrupted by
19 independent circumstances.

20 For purposes of Count 1, Count 2, and Count 5, a threat is
21 wrongful if the defendant knew that he was not entitled to the
22 property or that the threat had no nexus, that is, a connection
23 to a legitimate claim for money or property.

24 Counts 2 and 5 have an element that commerce from one
25 state to another was or would have been affected in some way.

1 The term "commerce" means all commerce between any point and a
2 state territory possession or the District of Columbia or any
3 point outside thereof and all commerce between points within
4 the same state through any place outside the state.

5 As for the word "affect," only a minimal effect on
6 commerce is required. The effect need only be reasonably
7 probable, not actual.

8 Now, the defendant is also charged in Count 6 of the
9 Indictment with violating Section 1952(a)(3) of Title 18. In
10 order for the defendant to be found guilty of that charge, the
11 Government must prove each of the following elements beyond a
12 reasonable doubt:

13 First, the defendant used a facility of interstate or
14 foreign commerce, namely, a cellular telephone, with the intent
15 to promote, manage, establish, or carry on or facilitate the
16 promotion, management, establishment, or carrying on of an
17 unlawful activity, namely, extortion offenses in violation of
18 the laws of the United States;

19 Second, after doing so, the defendant attempted to perform
20 acts to promote, manage, establish, carry on, or facilitate the
21 promotion, management, establishment and carrying on of the
22 extortion;

23 And, third, the defendant did something that was a
24 substantial step toward committing the crime. Mere preparation
25 is not a substantial step toward committing the crime. To

1 constitute a substantial step, a defendant's act or actions
2 must demonstrate that the crime will take place unless
3 interrupted by independent circumstances.

4 Now, an act is done knowingly if the defendant is aware of
5 the act and does not act through ignorance, mistake, or
6 accident. You may consider evidence that the defendant's
7 words, acts or omissions along with all of the other evidence
8 in deciding whether the defendant acted knowingly.

9 The intent of a person or the knowledge that a person
10 possesses at any given time may not ordinarily be proved
11 directly because there's no way of directly scrutinizing the
12 workings of the human mind. In determining the issue of what
13 the defendant knew or what the defendant intended at a
14 particular time, you may consider any statement made or acts
15 done or omitted by the defendant and all other facts and
16 circumstances received in evidence which may aid in your
17 determination of the defendant's knowledge or intent.

18 The Indictment charges that offenses -- the offenses
19 alleged were committed on or about certain dates. Although it
20 is necessary for the Government to prove beyond a reasonable
21 doubt that the offenses were committed on the date reasonably
22 near the dates alleged in the Indictment, it is not necessary
23 for the Government to prove that the offenses were committed
24 precisely on the dates charged.

25 Now, when you begin your deliberations, you will elect one

1 member of your jury as foreperson who will preside over the
2 deliberations and speak for you here in court. You will then
3 discuss the case with your fellow jurors to reach an agreement
4 if you can do so.

5 Your verdict, whether guilty or not guilty, must be
6 unanimous. Each of you must decide the case for yourself, but
7 you should do so only after you have considered all of the
8 evidence, discussed it fully with the other jurors, and
9 listened to the views of your fellow jurors. Do not be afraid
10 to change your opinion if the discussion persuades you that you
11 should, but do not come to a decision simply because other
12 jurors think it is right.

13 It is important that you attempt to reach a unanimous
14 verdict but of course only if each of you can do so after
15 having made your own conscientious decision. Do not change an
16 honest belief about the weight and effect of the evidence
17 simply to reach a verdict.

18 Now, some of you may have taken notes during the trial.
19 Whether or not you took notes, you should rely on your own
20 memory of what was said. Notes are only to assist your memory,
21 and you should not be overly influenced by your notes or those
22 of your fellow jurors.

23 The punishment by law for these crimes is for the Court to
24 decide. You may not consider punishment in deciding whether
25 the Government has proved its case against the defendant beyond

1 a reasonable doubt.

2 Now, we have prepared a verdict form for you. After you
3 have reached a unanimous agreement on a verdict, your
4 foreperson should complete the verdict form according to your
5 deliberations, sign the form, date it, and advise the clerk
6 that you're ready to return to the courtroom.

7 If it becomes necessary during your deliberations to
8 communicate with me, you may send a note through the clerk
9 signed by one or more of you. No member of the jury should
10 ever attempt to communicate with me except by a signed writing,
11 and I will respond to the jury concerning the case only in
12 writing or here in open court. If you send out a question, I
13 will consult with the lawyers before answering it which may
14 take some time. You may continue your deliberations while
15 waiting for the answer to any question.

16 Remember that you're not to tell anyone, including me, how
17 the jury stands numerically or otherwise on any question
18 submitted to you including the question of the guilt of the
19 defendant until you have reached a unanimous verdict or have
20 been discharged.

21 The Court does not have any additional instructions. I
22 will ask the bailiff to come forward, and we'll swear the
23 bailiff.

24 THE CLERK: Please state your appearance for the
25 record.

1 THE BAILIFF: John Salas, S-a-l-a-s.

2 THE CLERK: Please raise your right hand.

3 (Bailiff sworn.)

4 THE COURT: All right. Ladies and gentlemen, I'm
5 going to excuse you in just a minute to begin your
6 deliberations, but I have a couple of other comments.

7 The first is unfortunately the alternates can't
8 participate in the deliberations in the jury room. So if you
9 have anything in the jury room, I'm going to ask you to go
10 back -- Shannon will go back with you -- and remove anything
11 you have from the jury room, and go back up to the jury room,
12 and we'll keep you advised of the status of the case.

13 I understand that lunch has been ordered. I don't know
14 what time it's going to be delivered, but Shannon will have
15 that information.

16 There's a very important issue that we need to discuss,
17 and that is, when you're deliberating, you have to all be in
18 the room and deliberating at the same time. There's no
19 caucuses with two or three members of the jury. I understand
20 you'll be taking breaks, but if you do take a break, the rest
21 of you must stop discussing or deliberating about the case.
22 I'm going to rely not only on your foreperson but each
23 individual juror to remember that you can only discuss the
24 evidence in this case when you're all together. So that's a
25 very important housekeeping matter.

1 The jury instructions, the verdict form, and the exhibits
2 will all be delivered to the jury room. The exhibits may take
3 a couple minutes, but we'll have them in. The jury
4 instructions and the verdict form will be in immediately. I
5 think that's all I have.

6 All right. I will now ask you to go back into the jury
7 room and commence your deliberations.

8 (The following proceedings were held in
9 open court out of the presence of the jury:)

10 THE COURT: All right. The jury is not present.

11 Make sure that Shannon has your contact information, and
12 you're not going to go back to your office. You're going to
13 remain here.

14 And also, Mr. Marshals, you're not going to take the
15 defendant back over to Roybal. You're going to keep him in
16 this building in the event we get some question. So Shannon
17 will need to know where you're going to be. You can use the
18 witness room at the end of the hall.

19 THE MARSHAL: I'll keep in communication with
20 Shannon, your CRD.

21 THE COURT: Okay. I don't want him to go back to
22 Roybal because, if we have a jury question, we're not going to
23 have a 15-minute delay by the time you get him from Roybal back
24 here. So he's going to be in this building.

25 THE MARSHAL: Yes, sir.

1 MS. JAIMEZ: Your Honor, two quick notes about the
2 exhibits, specifically, Exhibits 201, 201-A, 202, and 202-A,
3 the recordings. In the original exhibit binder the recordings
4 201 and 202, there's disks there, and I believe we should
5 probably take the disks out and just have face sheets there so
6 they can't listen to the audio back in the jury deliberations.
7 And then with respect to 201- and 202-A, these were erroneously
8 submitted into evidence. These were marked for identification
9 as the transcripts of the --

10 THE COURT: Counsel, stop. I've asked you to
11 communicate with Shannon on these issues, and when Shannon gets
12 back, we can take these up because she's been involved in
13 preparing the post-trial exhibit stipulation. So we'll hold
14 off until she returns so we can have a clear understanding of
15 what you're trying to accomplish.

16 MS. JAIMEZ: Yes, Your Honor. Thank you.

17 THE COURT: Stay at counsel table. I'll be back as
18 soon as I can find Shannon.

19 (A pause in the proceedings.)

20 THE COURT: We're back on the record. Shannon is
21 now present.

22 Shannon advises that she understands what the issue is.
23 Go ahead and state the issue now.

24 MS. JAIMEZ: The issue is with respect to Exhibits
25 201 --

1 THE COURT: Wait a minute. Wait a minute.

2 MS. JAIMEZ: Which is an audio recording.

3 THE COURT: All right. 201 in my book is a xerox of
4 a disk. What's the issue?

5 MS. JAIMEZ: Your Honor, I believe in the originals
6 we placed the actual disk.

7 THE COURT: Okay.

8 MS. JAIMEZ: It's our understanding that the disk
9 should just be heard in open court, not back in the jury room.

10 THE COURT: Right. So 201 which has the original
11 disk, Shannon, are you going to take the original disk out?

12 THE CLERK: Yes. And they want the 201-A.

13 THE COURT: Do you have one of these, Shannon?

14 THE CLERK: No.

15 THE COURT: Okay. Why don't you -- I'll give you
16 mine. I didn't write on it.

17 What's the next issue?

18 MS. JAIMEZ: The next issue is with respect to the
19 transcript for 201. It's noted at 201-A. It was initially
20 marked for identification purposes only but erroneously put
21 into evidence. So we'd like for it to be taken out of
22 evidence. We've already discussed that with the defense, and
23 they've also asked us to take out the transcript.

24 THE COURT: Okay. Exhibit 201 --

25 MS. JAIMEZ: A. It's the transcript for the

1 recording.

2 THE COURT: 201-A.

3 THE CLERK: Do you have a photocopy of 202 like you
4 did 201?

5 THE COURT: Hold on. I'm still on 201-A.

6 The record will reflect that, pursuant to agreement of
7 counsel, that 201-A is -- was erroneously received into
8 evidence and will now be unreceived and will be taken out of
9 the original exhibit binder; is that correct?

10 MS. AHMAD: Yes, Your Honor.

11 THE COURT: Correct?

12 MS. JAIMEZ: Yes, Your Honor.

13 (Withdrawn from evidence Exhibit No. 201-A.)

14 THE COURT: All right. What's the next issue?

15 MS. JAIMEZ: The next issue is with respect to 202.
16 It's also a disk of a recording.

17 THE COURT: All right. So we're not going to send
18 the original disk in, and we'll use my photocopy of the disk in
19 its place.

20 MS. JAIMEZ: Thank you, Your Honor.

21 THE COURT: Anything else?

22 MS. JAIMEZ: The last issue is with respect to
23 202-A. The transcript of the recording was also erroneously
24 submitted for admission into evidence. So we would ask that
25 the Court take 202-A out of evidence. We've also discussed

1 this with the defense.

2 THE COURT: Pursuant to agreement of counsel, 202-A
3 was not supposed to be received into evidence, and it will no
4 longer be in evidence, and we will not send it back to the --
5 we will not send 202-A, the transcript, back to the jury;
6 correct?

7 MS. AHMAD: Yes, Your Honor.

8 (Withdrawn from evidence Exhibit No. 202-A.)

9 THE COURT: Okay. Anything else?

10 MS. JAIMEZ: Nothing else, Your Honor. Thank you.

11 THE COURT: Okay.

12 (A recess was taken at 10:11 a.m.)

13 (The following proceedings were held in
14 open court out of the presence of the jury:)

15 THE COURT: All right. We're on the record. All
16 counsel are present. The defendant is present. We received
17 two notes from the jury. The first note was at 11:15. The
18 second note was at 11:16. We were making final edits to the
19 jury instructions as counsel was arguing; so I haven't given
20 counsel a copy of the instructions that I read. So I'm going
21 to ask Shannon now to provide you with a copy so it will be
22 easier to the extent we have questions.

23 I understand from Shannon that counsel have reached an
24 agreement in terms of what the response should be?

25 MS. AHMAD: Yes, Your Honor.

1 THE COURT: What is your agreement?

2 MS. AHMAD: We believe that the Court should just
3 reread the instructions to the jury, Your Honor.

4 THE COURT: All of them?

5 MS. AHMAD: I'm trying to --

6 MS. JAIMEZ: No, Your Honor.

7 MS. AHMAD: Just the commerce instruction,
8 Your Honor. I'm just trying to find --

9 MS. JAIMEZ: Your Honor, we can clarify if it's
10 helpful. So for note no. 1, Your Honor, we would request that
11 the Court refer the jury to the definition of "commerce" and
12 the definition of "affect" contained in the Court's instruction
13 and remind the jury -- so specifically to that instruction,
14 which appears to be no. 17, and remind the jury that all
15 instructions are to be weighed equally and should be considered
16 in their totality.

17 And for note no. 2, we would request that the Court refer
18 the jurors to the Court's Instruction no. 17 and the evidence
19 in its totality.

20 THE COURT: Well, that doesn't make any sense, but
21 my proposal is the following. It's pretty clear to me that
22 they want a -- based upon the notes, they asked for note no. 1
23 a clarification of Count no. 2, part 3, which is what they're
24 obviously referring to as the third element of that count.
25 That's the Court's Instruction no. 13. That's with respect to

1 the Hobbs Act, and they're asking for a legal definition of
2 commerce.

3 I think counsel are partially correct that what we need to
4 do is respond and refer the jury to the Court's
5 Instruction no. 17, and perhaps they just have not focused on
6 the fact that Jury Instruction no. 17 which is the definition
7 that we provided them for commerce under the third element of
8 the -- Count 2 of the Hobbs Act.

9 Does everybody agree on that?

10 MS. AHMAD: Yes, Your Honor.

11 THE COURT: Okay. The second item is that they're
12 asking in note no. 2 a specific question, and that is is
13 movement of one money from one state to another proof that
14 commerce was affected? So what I propose to do is to give them
15 an additional instruction, and this additional instruction is
16 from the jury instructions that were submitted by the parties
17 on June 15, 2015, and appears as document no. 182 which was
18 proposed by the Government and not objected to by the defense.
19 That included the definition of interstate commerce which
20 includes the movement of goods, services, money, and
21 individuals between states.

22 So my proposal would be, in addition to providing them --
23 and I actually have drafted the response, and I'm going to ask
24 Shannon to provide counsel with it.

25 MS. AHMAD: Your Honor, I'm sorry.

1 THE COURT: Wait a minute. Take a look at it. I'm
2 not trying to cut you off. I just want to make sure you're
3 focused.

4 So the first part of the response is simply to restate
5 Court's Instruction no. 17, and then the second part of the
6 response is to provide them with what they've asked for, and
7 that is a definition of commerce which I obtained, as I said,
8 from Government's proposed Instruction no. 15. While defense
9 is looking at it, does the Government have any objection?

10 MR. JAUREGUI: No, Your Honor. The only thing we
11 would request is that, once the jury is reinstructed --

12 THE COURT: I'm not reinstructing them. I'm simply
13 going to attach this as a response to their note and send it
14 in.

15 MR. JAUREGUI: Okay. Then no. No objection,
16 Your Honor.

17 MS. AHMAD: Your Honor, the defense is in agreement
18 with what the Court is proposing.

19 THE COURT: Okay. Shannon has a form that indicates
20 that response to juror's notes nos. 1 and 2, and the response
21 is going to be what I have provided to counsel, and I'm going
22 to sign it and send it into the jury room.

23 All right. We'll be in recess.

24 (A recess was taken at 11:57 a.m.)

25 THE COURT: All right. All counsel are present.

1 The defendant is present. We have a note from the jury that
2 they have reached a verdict. So let's bring in the jury, and
3 we'll take the verdict.

4 (The following proceedings were held in
5 open court in the presence of the jury:)

6 THE COURT: All right. The jury has returned. All
7 counsel and the defendant are present. We received a note from
8 the jury that the jury has reached a unanimous verdict.

9 Would the foreperson please identify herself.

10 JUROR NO. 3: Janene Gaines.

11 THE COURT: All right. Would you please hand the
12 verdict to the bailiff.

13 All right. I will now ask the courtroom deputy to publish
14 the jury's verdict.

15 THE CLERK: United States District Court for the
16 Central District of California, United States of America versus
17 Teofil Brank, CR 15-131(A)-JFW, verdict form for Defendant
18 Teofil Brank.

19 As to the following counts charged against Teofil Brank,
20 Count 1, no. 1, we the jury in the above captioned case
21 unanimously find Defendant Teofil Brank guilty.

22 Count 2, no. 2, we the jury in the above captioned case
23 unanimously find Defendant Teofil Brank guilty.

24 Count 3, no. 3, we the jury in the above captioned case
25 unanimously find Defendant Teofil Brank guilty.

1 Count 4, no. 4, we the jury in the above captioned case
2 unanimously find Defendant Teofil Brank guilty.

3 Count 5, no. 5, we the jury in the above captioned case
4 unanimously find Defendant Teofil Brank guilty.

5 Count 6, no. 6, we the jury in the above captioned case
6 unanimously find the defendant Teofil Brank guilty.

7 Signed the foreperson, dated July 9, 2015.

8 THE COURT: All right. Members of the jury, is that
9 the verdicts of each of you so say you all?

10 (Jury responds in the affirmative.)

11 THE COURT: The jurors have nodded in the
12 affirmative and answered in the affirmative.

13 Does the defendant wish to have the jury polled?

14 MR. CHOWDHURY: May we have one moment?

15 MS. AHMAD: Yes, Your Honor.

16 THE COURT: The clerk will poll the jury.

17 THE CLERK: Ladies and gentlemen of the jury, if
18 this is your verdict as read and presented, as I call your
19 number, please answer "yes." If it is not, please answer "no."

20 Juror No. 1?

21 JUROR NO. 1: Yes.

22 THE CLERK: Juror No. 2?

23 JUROR NO. 2: Yes.

24 THE CLERK: Juror No. 3?

25 JUROR NO. 3: Yes.

1 THE CLERK: Juror No. 4?

2 JUROR NO. 4: Yes.

3 THE CLERK: Juror No. 5?

4 JUROR NO. 5: Yes.

5 THE CLERK: Juror No. 6?

6 JUROR NO. 6: Yes.

7 THE CLERK: Juror No. 7?

8 JUROR NO. 7: Yes.

9 THE CLERK: Juror No. 8?

10 JUROR NO. 8: Yes.

11 THE CLERK: Juror No. 9?

12 JUROR NO. 9: Yes.

13 THE CLERK: Juror No. 10?

14 JUROR NO. 10: Yes.

15 THE CLERK: Juror No. 11?

16 JUROR NO. 11: Yes.

17 THE CLERK: Juror No. 12?

18 JUROR NO. 12: Yes.

19 THE COURT: All right. The Court will instruct the
20 courtroom deputy to file and record the verdict.

21 Counsel, is there any reason why this Court should -- why
22 the Court should not discharge this jury?

23 MS. AHMAD: No, Your Honor.

24 MS. JAIMEZ: No, Your Honor.

25 THE COURT: All right. Ladies and gentlemen, I want

1 to give you one final instruction.

2 Now that the case has been concluded, some of you may have
3 questions about confidentiality of the proceedings. Many times
4 jurors ask if they're at liberty to discuss the case with
5 anyone. Now that the case is over, you're of course free to
6 discuss the case with anyone you choose.

7 By the same token, however, I would advise you that you're
8 under no obligation to discuss this case with any person, and
9 always bear in mind, if you do decide to discuss the case, that
10 your fellow jurors fully and freely stated their opinions with
11 the understanding that those views are being expressed in
12 confidence. So I would ask you to please respect the privacy
13 of the views of your fellow jurors.

14 So we have our alternates here, and unfortunately you
15 couldn't get to deliberate, but you were very -- your
16 participation was certainly very important. And I want to
17 thank all of the members of the jury for their participation in
18 these proceedings.

19 You are now discharged.

20 (The following proceedings were held in
21 open court out of the presence of the jury:)

22 THE COURT: All right. The sentencing date in this
23 matter will be September 21st, 2014. Is that date and time
24 acceptable?

25 MR. CHOWDHURY: Your Honor, I believe you mentioned

1 2014.

2 THE COURT: I'm sorry. 2015.

3 MS. AHMAD: Your Honor, can I have just one moment?

4 THE COURT: Sure. At 9:00 a.m.

5 MS. AHMAD: I'll be out of the country, Your Honor.

6 I'm just conferring with Mr. Chowdhury about other potential

7 dates.

8 THE COURT: Well, why don't we -- I'm going to set
9 that date because I want to get a presentence report in the
10 process. Then if you need to continue the date because you're
11 going to be unavailable, we can continue the date. But I want
12 to set that date today. That way the presentence report will
13 start preparation, and we can deal with any issues later on.

14 Is that date and time acceptable to the Government?

15 MS. JAIMEZ: Yes, Your Honor.

16 THE COURT: All right. We will be in recess. Make
17 sure that you check with Shannon to get the exhibits.

18 MR. WHITE: Thank you, Your Honor.

19 (Proceedings concluded at 12:35 p.m.)

20

21

22

23

24

25

1 CERTIFICATE OF OFFICIAL REPORTER
2
3
4

5 I, MIRANDA ALGORRI, FEDERAL OFFICIAL REALTIME
6 COURT REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR
7 THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT
8 PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE
9 FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE
10 STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE
11 ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS IN
12 CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL CONFERENCE OF
13 THE UNITED STATES.

14
15 DATED THIS 26TH DAY OF JULY, 2015.
16
17

18 /S/ MIRANDA ALGORRI

19 _____
20 MIRANDA ALGORRI, CSR NO. 12743, CRR
21 FEDERAL OFFICIAL COURT REPORTER
22
23
24
25